



# Assessment of Legislative Frameworks Governing **Waste Management** in the **COOK ISLANDS**



November 2020



Supported by the Australian Government through the Pacific Ocean Litter Project



**Disclaimer**

This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of SPREP and do not necessarily reflect the views of the European Union. This document has been compiled in good faith, exercising all due care and attention. SPREP does not accept responsibility for inaccurate or incomplete information.

**© Secretariat of the Pacific Regional Environment Programme (SPREP), 2020.**

Reproduction for educational or other non-commercial purposes is authorised without prior written permission from the copyright holder provided that the SPREP and the source document are properly acknowledged. Reproduction of this publication for resale or other commercial purposes is prohibited without prior written consent of the copyright owner.

**Acknowledgment:** Gratitude is expressed to all PacWastePlus participating country focal points, delegated officers and staff of the various ministries and departments for their cooperation and assistance provided to the consultants and the programme for this assessment.

**Photo credits:** dreamstime.com, depositphotos.com, unsplash.com, freepik.com

**Author Credit:**

Prepared by the Melbourne Law School at the University of Melbourne, Australia, with technical assistance from Monash University, on behalf of the Secretariat of the Pacific Regional Environment Programme (SPREP). All research was undertaken during the first half of 2020.

**SPREP Library Cataloguing-in-Publication Data**

Assessment of legislative frameworks governing waste management in the Cook Islands. Apia, Samoa: SPREP, 2021.

57 p. 29 cm.

**ISBN:** 978-982-04-0942-2

1. Waste management – Refuse and refuse disposal – Cook Islands.

2. Environmental management – Government policy – Cook Islands.

I. Pacific Regional Environment Programme (SPREP). II. Title.

344.046 20962 3



Secretariat of the Pacific Regional Environment Programme (SPREP)

PO Box 240

Apia, Samoa

[www.sprep.org](http://www.sprep.org)

[sprep@sprep.org](mailto:sprep@sprep.org)

**Our vision:** A resilient Pacific environment sustaining our livelihoods and natural heritage in harmony with our cultures.

# Table of Contents

<b>ABOUT THIS REPORT</b> .....	<b>4</b>
<b>INTRODUCTION</b> .....	<b>5</b>
LEGISLATIVE SUMMARY .....	7
<i>Legislation impacting waste governance</i> .....	7
PIPELINE ACTIVITIES .....	13
STOCKTAKE OF RELEVANT MULTILATERAL ENVIRONMENTAL AGREEMENTS .....	13
<b>LEGISLATIVE FRAMEWORK ASSESSMENT</b> .....	<b>16</b>
METHODOLOGY .....	16
<i>Approach and Criteria</i> .....	16
<i>Overview of the legal system</i> .....	17
<i>Proposed Processes to Amend the Waste Management Legislative Framework</i> .....	17
LEGISLATIVE ASSESSMENT .....	18
<i>Relevance</i> .....	18
<i>Coherence</i> .....	21
<i>Effectiveness</i> .....	22
<i>Efficiency</i> .....	23
<i>Impact</i> .....	24
METHODOLOGY .....	26
<i>Approach and Elements</i> .....	26
CAPACITY ASSESSMENT .....	27
<i>Drafting</i> .....	27
<i>Enactment</i> .....	29
<i>Implementation</i> .....	30
<i>Compliance and enforcement capacity</i> .....	31
<i>MEA reporting</i> .....	33
LEGISLATIVE MODELS FOR WASTE GOVERNANCE .....	36
<i>Trends in waste governance across the participating countries</i> .....	36
<i>Key recommendations to increase national legislative and institutional capacity</i> .....	37
<b>ANNEX 1: GLOSSARY OF LEGAL TERMS</b> .....	<b>39</b>
<b>ANNEX 2: ACRONYMS</b> .....	<b>41</b>
<b>ANNEX 3: PRIORITY WASTE DEFINITIONS</b> .....	<b>42</b>
<b>ANNEX 4: EXISTING LEGISLATION ADDRESSING WASTE MANAGEMENT</b> .....	<b>43</b>
<b>ANNEX 5: MEA REPORTING</b> .....	<b>46</b>
<b>ANNEX 6: MODELS AND CONCEPTS FOR WASTE MANAGEMENT</b> .....	<b>50</b>

## List of Tables

TABLE 1: LEGISLATION IMPACTING WASTE GOVERNANCE IN THE COOK ISLANDS .....	8
TABLE 2: POLICIES AND REPORTS IMPACTING WASTE GOVERNANCE IN THE COOK ISLANDS .....	10
TABLE 3: GOVERNMENT DEPARTMENTS WITH WASTE RESPONSIBILITIES IN THE COOK ISLANDS.....	12
TABLE 4: PIPELINE ACTIVITIES FOR THE COOK ISLANDS .....	13
TABLE 5: MEAs ACTIVE IN COOK ISLANDS.....	14
TABLE 6: DEFINITIONS OF WASTE IN COOK ISLANDS' LEGISLATION .....	19
TABLE 7: COMPLIANCE WITH MEA REPORTING REQUIREMENTS .....	34
TABLE 8: GLOSSARY OF LEGAL TERMS .....	39
TABLE 9: ACRONYMS .....	41
TABLE 10: PACWASTEPLUS PROGRAMME DEFINITIONS .....	42
TABLE 11: LEGISLATION IMPACTING WASTE GOVERNANCE IN THE COOK ISLANDS .....	43
TABLE 12: NOTIFICATION, INFORMATION SHARING AND REPORTING REQUIREMENTS OF MEAs .....	47
TABLE 13: LEGISLATIVE MODELS AND INSTITUTIONAL REQUIREMENTS .....	52
TABLE 14: LEGISLATIVE MODELS IN PARTICIPATING COUNTRIES' WASTE LAWS.....	56

# About this Report

## Sources of Information



Publicly available online resources about waste management laws in the participating countries (e.g., PacLII, EcoLEX, SPREP, InforMEA and FAOLEX, as well as the websites of government departments and other agencies administering waste and other environmental laws in the participating countries)



Qualitative information derived from UoM's interviews (remote and face-to-face) with in-country stakeholders



Additional information on legislation or pipeline initiatives identified by in-country contacts



An online survey sent to in-country participants requesting information on waste laws in their countries and their implementation, administration, and enforcement

In the Cook Islands, interviews were conducted remotely with participants from government departments, agencies and contractors addressing issues of environmental protection, waste management, legal matters, as well as the private sector and NGOs.

Additional interviews were conducted with external consultants and SPREP staff working on specific programs relevant to the Waste Legislative Review.



**Available online sources do not always contain the most up-to-date legislation or may be incomplete. Where possible, the UoM team drew on contacts with parliamentary libraries in the participating countries to source more recent legislation. However, it is not possible to say with certainty that all relevant legislation, or the most current versions, were identified in the desktop review.**

**For identifying proposed legislation, the UoM team relied on an online survey sent out to 110 in-country contacts in the participating countries (with a 21% response rate), as well as interviews with in-country contacts in the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, the Republic of the Marshall Islands, Samoa, the Solomon Islands, Timor-Leste, the Kingdom of Tonga, Tuvalu, and Vanuatu.**

# Introduction

This assessment has been prepared by the *Secretariat of the Pacific Regional Environment Programme's* (SPREP) EU-funded PacWastePlus programme (PacWaste Plus or 'Programme'), drawing upon reporting developed by the University of Melbourne (UoM) on behalf of PacWastePlus for that programme's *Waste Legislative Review* project. The UoM team reviewed legislation relevant to waste management in 14 Pacific region countries and Timor-Leste. Separate assessments are provided for each of the PacWastePlus participating countries.

This assessment was designed to achieve a number of outcomes:

- Gain a working understanding of the legislative framework governing waste management in PacWastePlus participating countries
- Determine which countries have legislation that actively manages issues caused by the generation of waste streams that are the focus of the PacWastePlus programme activities (asbestos, e-waste, healthcare waste, recyclables, organics, bulky waste, disaster waste and wastewater) and plastic waste
- Understand strengths and weaknesses of the legislative frameworks to manage the waste issues and social and environmental problems caused by the generation of these wastes
- To provide some guidance on possible modifications to the legislative framework to improve waste management outcomes.

This assessment provides the broad findings of the research and investigation undertaken by the UoM team in relation to the Cook Islands. It provides:

- A **stocktake of the existing legislative environment for waste management** in the Cook Islands, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, recyclables, organics, disaster waste, bulky waste and wastewater, as well as plastic waste, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
- A **stocktake of pipeline legislative initiatives** in the Cook Islands, including an assessment of their impact and approximate timeframe for development.
- An **assessment of the legislative framework** and its relevance to the PacWastePlus programme focus waste streams and plastic waste
- An **assessment of the capacity** of the Cook Islands' government to enact the instruments included in the legislative framework
- **Options for strengthening the legislative framework** for the Government of the Cook Islands to deliver its desired waste management outcomes.

# **SECTION 1: LEGISLATIVE STOCKTAKE**



This stocktake provides a detailed view of the legislative environment governing waste management currently in operation in the Cook Islands

# Legislative Summary

## Legislation impacting waste governance

Waste governance in the Cook Islands is managed under general environmental and public health legislation. There are ongoing consultations about the development of a *Solid and Hazardous Waste Bill*, discussed further under 'Pipeline activities', below.

The following tables provide a stocktake of the existing legislative environment for waste management and governance in the Cook Islands. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.

- Table 1 details the legislation impacting waste governance in the Cook Islands.
- Table 2 lists the key policy instruments and reports.
- Table 3 notes the departments with responsibilities for waste management.

**Table 1: Legislation impacting waste governance in the Cook Islands**

LEGISLATION	REGULATIONS
<p><b><u>ENVIRONMENT ACT 2003 (AS MADE)</u></b></p> <p>Establishes a National Environment Service (NES), functions of which under include: to prevent, control and correct the pollution of air, water, and land; and to ensure environmentally safe disposal of toxic chemicals and wastes.</p> <p>Section 11 establishes an Island Environment Authority (IEA) for each island, a function of which is to formulate and publish guidelines on specific issues of environmental protection and improvement and environmental quality and wastewater standards for the purposes of the Act.</p> <p>Part 5 outlines requirements relating to Environmental Impact Assessments (EIAs), and Section 36(13) states that the designation of land for the disposal of any kind of waste is deemed to be an activity likely to cause significant environmental impacts, therefore requiring an EIA permit.</p> <p>Part 7 relates to the control of litter. Section 46 allows the Minister to designate or approve any land as an area to be used by the public for the disposal of waste. It is noted in Section 46(6) that this section is subject to Section 36(13), requiring an EIA. Section 47 allows Environment Officers to issue notices requiring occupiers of private land to clear litter.</p> <p>Section 51 makes pollution of Cook Islands waters and inland waters an offence.</p> <p>Section 54 allows regulations to impose a levy on commercial establishments degrading water quality, to be deposited into the Environment Protection Fund.</p> <p>Section 56 makes an offence to dispose of any toxic chemical or its waste in a manner likely to harm the environment.</p> <p>Section 61 establishes an Environment Protection Fund, to be expended on, among other things, protection from pollution.</p> <p>Section 70 allows the creation of regulations.</p>	<p><u>Environment (Atiu and Takutea) Regulation 2008</u></p> <p><u>Environment (Mitiaro) Regulation 2008</u></p> <p>These regulations are made for the Island Environment Authorities for Atiu and Takutea and Mitiaro established pursuant to Section 11 of the Act. Part 4 relates to environmental health and Part 7 to enforcement. Note that Regulation 26 makes it unlawful to bring onto the Islands any non-biodegradable plastic shopping bags or glass beer containers.</p> <p>Prohibition on Importation of Plastic Shopping Bags Regulation 2012 (Regulation 2012/9)</p> <p>These regulations are referred to in various reports but are not available online.</p>

**PUBLIC HEALTH ACT 2004 (AS MADE)**

Part 6 (Sections 35–41) relates to waste, the purpose of which under Section 35 is to ensure that waste is safely stored, collected, treated, removed, transported, disposed of, and otherwise dealt with.

Other provisions of the legislation deal with building health standards, including for waste disposal and wastewater.

Section 37 establishes responsibilities of building occupiers to ensure proper and safe disposal of waste. Section 38 prohibits burning of plastic waste and tyres. Section 39 outlines required methods of emptying and disposal of septic tank waste. Section 40 prohibits dumping of waste. Section 41 allows for the making of further regulations regarding waste management.

Schedule 1 outlines ‘offensive trades’, including operating a waste disposal site, removal of waste from septic tanks and waste collection, treatment or disposal. Part 8 regulates offensive trades. Offensive trades are prohibited without permits by Section 51, while Section 52 establishes offensive trade permits and their requirements.

**INFRASTRUCTURE ACT 2019 (AS MADE)**

The Act outlines a structure of management for Cook Islands infrastructure, including establishing role of ‘infrastructure manager’ with various powers of entry and responsibilities.

In Section 6, ‘infrastructure’ is defined to include: wastewater networks, solid and hazardous waste facilities, storm water drains and storm water networks.

A principle in implementation of the Act is the management of infrastructure in an environmentally sound manner.

**DANGEROUS GOODS ACT 1984 (AS MADE)**

Outlines licensing system for the storage of dangerous goods (said to be defined in a schedule to the Act but no schedule could be located).

**PESTICIDES ACT 1987 (AS MADE)**

N.B. link provided but unable to download legislation

Section 5 establishes a Pesticides Board, a function of which is to promote the efficient, prudent, and safe use of pesticides. Section 12(3) requires the Board to refuse an application for registration of a pesticide if its use would give rise to an unacceptable hazard to the public or the environment

**Public Health (Sewage) Regulation 2008**

Establishes Sewage and Sanitation Board and regulations regarding operational standards (Part 2), sewage system construction (Part 3), sewage operation and maintenance (Part 4) and upgrades (Part 5). Part 6 outlines enforcement, offences, penalties, and liabilities. Health inspector powers are authorised in Section 36.

**Public Health Sewage (Code) Regulation 2008**

Technical code on minimum specifications for sewage systems.

**Public Health Sewage (Forms) Regulation 2008**

Schedule of forms for various applications under sewage regulations.

None identified

None identified

None identified

**Table 2: Policies and reports impacting waste governance in the Cook Islands**

POLICY	DESCRIPTION
<p><u><b>National Health Strategic Plan 2017-2021</b></u>  <u><b>National Implementation Plan for the Stockholm Convention in the Cook Islands 2011</b></u></p>	<p>Improvement of various kinds of waste management highlighted as objectives.  Submitted in fulfilment of Cook Islands obligations as a party to the Stockholm POPs Convention.</p>
<p><u><b>National Infrastructure Investment Plan, 2015</b></u>  <u><b>National Sustainable Development Plan 2016-2020</b></u></p>	<p>Analysis and plan for infrastructure needs, including sanitation and solid waste management.  Goal 3 is to promote sustainable practices for, and effectively manage, solid and hazardous waste, while Goal 4 is sustainable management of water and sanitation.</p>
<p><u><b>National Water Policy 2016</b></u></p>	<p>Objective 3 is to ensure access to reliable, safe drinking water for all who reside in the Cook Islands, including minimising any wastewater and ensuring appropriate water quality such that effluent and wastewater do not affect the environment.</p> <p>Objective 4 is to establish equitable and economically sustainable systems for minimising waste and leakage, while Objective 7 is to ensure catchment and water sources are protected, including waste from domestic and commercial animal farming.</p> <p>An overarching policy principle is that Cook Islands will comply with all conventions or treaties related to water resource management and environmental protection that it has ratified.</p>
<p><u><b>Sanitation (Wastewater Management) Policy 2016</b></u></p>	<p>Discussion throughout of wastewater management, including context, principles, objectives, and implementation.</p>
<p><u><b>Single Use Plastic Ban Policy 2018-2023</b></u></p>	<p>Policy establishes the process to ban the importation of single-use plastic products into Cook Islands, rather than doing so. Ban is supposed to be written into the upcoming <i>Solid and Hazardous Waste Bill</i>.</p>
<p><u><b>Solid Waste Management Policy 2016-2026</b></u></p>	<p>Policy relating to solid waste management, outlining goals relating to waste minimisation along with institutional and legislative framework and implementation.</p>
<p><u><b>National Solid Waste Management Strategy 2013-2016</b></u></p>	<p>Seeks to establish an Integrated Solid Waste Management Framework that improves the country's management of solid waste and promotes shared solid waste management responsibility by all stakeholders. Legislative review and drafting of new waste management legislation identified as a priority.</p>
<p><u><b>Water Supply Master Plan for Rarotonga Cook Islands 2014</b></u></p>	<p>Waste discussed largely in Section 2.0 regarding the governance of the water supply system on Rarotonga.</p>

REPORTS	DESCRIPTION
<b><u>4<sup>th</sup> National Report to the Convention on Biological Diversity 2011</u></b>	Report submitted by Cook Islands as a party to the Convention on Biological Diversity (CBD).
<b><u>Audit of Rarotonga's Domestic Sanitation Systems 2011</u></b>	Report audited 101 sanitation systems in Rarotonga, 90% of sanitation systems failed, identified lack of knowledge and training, recommended review of Public Health (Sewage) Regulation 2008 and Code, as well as further training and education.
<b><u>Baseline Study for the Pacific Hazardous Waste Management Project: Healthcare Waste (Cook Islands) 2014</u></b>	Report on healthcare waste infrastructure in the Cook Islands.
<b><u>Final Report for Preparing the Infrastructure Development Project 2009</u></b>	Large report detailing the state of Cook Islands infrastructure and proposed projects. Volume 3 relates to the Water Supply and Sanitation Sector, including waste management.
<b><u>Green Climate Fund Country Programme: Cook Islands 2019</u></b>	Waste management highlighted throughout as important part of mitigation and adaptation in response to climate change.
<b><u>Mitigation Analysis and Technology Needs Assessment 2009</u></b>	Discussion of waste as it relates to greenhouse emissions throughout, with focus on waste management on page 38.
<b><u>National Report for the 2014 SIDS Conference and post-2015 SDGs 2013</u></b>	Management of solid waste discussed on page 18.
<b><u>National Water, Sanitation and Climate Outlook 2011 (draft report)</u></b>	Section 5.1.1 discusses land-use activities causing water pollution. Section 6.1 on governance discusses the waste management and sanitation improvement program. Section 6.2.2 discusses wastewater and sanitation facilities.
<b><u>Second National Communication under the UNFCCC 2011</u></b>	Submitted in fulfilment of Cook Islands obligations as a party to the UNFCCC.
<b><u>Waste Management Feasibility Study 2016</u></b>	Study on feasibility of various proposals relating to waste collection, processing, and disposal.
<b><u>Waste to Energy Feasibility Study 2012</u></b>	Study on feasibility of proposal to turn waste into renewable energy (through biomass gasification).
<b><u>Basel Convention National Report 2004 (submitted in 2006)</u></b>	Submitted in fulfilment of Cook Islands obligations as a Basel Convention Party.

**Table 3: Government departments with waste responsibilities in the Cook Islands**

GOVERNMENT DEPARTMENTS	RESPONSIBILITIES
<b><u>National Environment Service (NES), Ministry of Environment Services</u></b>	Responsible for environmental policy development.  Also enforces regulations on illegal dumping, controls and monitors pollution, sets environmental standards at the Rarotonga Waste Management Facility, and ensures the environmentally safe disposal of chemicals.
<b><u>Ministry for Infrastructure Cook Islands (ICI)</u></b>	Responsible for solid waste infrastructure development, collection, and disposal services.
<b><u>Island Environment Authorities (Atiu, Takutea and Mitiaro)</u></b>	An Island Environmental Authority is established for each island. Functions include formulating and publishing guidelines on specific issues of environmental protection and improvement, and environmental quality and wastewater standards for the purpose of the Environment Act.
<b><u>Ministry of Health (MoH)</u></b>	Administers the Public Health Act 2004.
<b><u>Ministry of Agriculture</u></b>	Administers the Pesticides Act 1987.

## Pipeline activities

The following sections provide details of identified pipeline legislative activities for waste management and governance in the Cook Islands. Information on these activities was obtained primarily from desktop research.

The principal pipeline initiative for the Cook Islands is passage of the proposed *Solid and Hazardous Waste Bill*. This draft legislation would provide a dedicated legislative framework for solid and hazardous waste management in the Cook Islands and serve as a vehicle for implementing the nation’s international commitments under relevant MEAs. The Bill would also include a ban on single-use plastics, which has been under discussion in the Cook Islands for some time and delayed on a number of occasions.

**Table 4: Pipeline activities for the Cook Islands**

PIPELINE ACTIVITY	DESCRIPTION	TIMEFRAME
<b>Passage of <i>Solid and Hazardous Waste Bill</i></b>	Dedicated legislative framework for solid and hazardous waste management in the Cook Islands. Implementing legislation for MEAs.	Delayed several times Due to be considered at parliament 2021
<b>Introduction of ban on Single Use Plastics</b>	Incorporated as part of <i>Solid and Hazardous Waste Bill</i> – see <a href="#">Cook Islands Single Use Plastic Ban Policy 2018-2023</a>	Delayed several times Due to be considered at parliament 2020
<b>Introduction of sustainable waste financing mechanism</b>	Incorporated as part of <i>Solid and Hazardous Waste Bill</i> –	Due to be considered at parliament 2021

## Stocktake of Relevant Multilateral Environmental Agreements

The relevant Multilateral Environmental Agreements (MEAs) for the stocktake were the:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention),
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention),
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention),
- Minamata Convention on Mercury (Minamata Convention) and
- Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

Table 5 provides details of the membership of the Cook Islands to these MEAs.

**Table 5: MEAs active in Cook Islands**

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
<b>Basel Convention</b>	27 Sep 2004	Mr Nga Puna Director, National Environment Service P.O. Box 371 Rarotonga, Cook Islands Phone: +682 21 256 Fax: +682 22 256 Email: <a href="mailto:resources@cookislands.gov.ck">resources@cookislands.gov.ck</a>	No specific implementing legislation but see <a href="#">Basel Convention National Report 2004</a> (submitted in 2006).
<b>Rotterdam Convention</b>	27 Sep 2004	Ms. Tapaeru Herrmann Secretary Ministry of Foreign Affairs and Immigration P.O. Box 105 Rarotonga, Cook Islands Phone : +682 29 347 Fax : +682 21 247 Email : <a href="mailto:secfa@cookislands.gov.ck">secfa@cookislands.gov.ck</a>  Mr. Vavia Tangatataia Manager, Advisory and Compliance Division National Environment Service P.O. Box 371 Rarotonga, Cook Islands Phone: +682 212 56 Fax: +682 222 56 Email: <a href="mailto:resources@cookislands.gov.ck">resources@cookislands.gov.ck</a>	No specific implementing legislation.
<b>Stockholm Convention</b>	27 Sep 2004	Ms. Tapaeru Herrmann Secretary Ministry of Foreign Affairs and Immigration P.O. Box 105 Rarotonga, Cook Islands Phone : +682 29 347 Fax : +682 21 247 Email : <a href="mailto:secfa@cookislands.gov.ck">secfa@cookislands.gov.ck</a>	No specific implementing legislation but see <a href="#">National Implementation Plan for the Stockholm Convention in the Cook Islands 2011</a> .
<b>Waigani Convention</b>	21 Oct 2001	Mr Nga Puna Director, National Environment Service PO Box 371 Rarotonga, Cook Islands Tel: (682) 21256 Fax: (682) 22256 Email: <a href="mailto:resources@cookislands.gov.ck">resources@cookislands.gov.ck</a>	No specific implementing legislation.
<b>Minamata Convention</b>	Not yet ratified		

## **SECTION 2: LEGISLATIVE ASSESSMENT**



This qualitative assessment of the Cook Islands legislative environment has classified the Cook Islands' waste-related laws on a scale of low-to-high against the criteria of relevance, coherence, effectiveness, efficiency, and impact.

# Legislative Framework Assessment

## Methodology

### Approach and Criteria

This legislative assessment was undertaken utilising a qualitative approach.

Legislation in the Cook Islands was evaluated against the following criteria that build on the OECD Development Assessment Committee (DAC) evaluation criteria 1990, as updated:



#### Relevance

defined as the extent to which legislation directly relates to, or provides coverage of, the priority waste streams of healthcare waste, asbestos, e-waste, plastic waste (including single-use plastics), recyclables, organic waste, bulky waste, disaster waste and wastewater.



#### Coherence

defined as the extent to which different elements of legislation and their administration fit together, or whether there are conflicts or lack of coordination between laws that undermine coherence.



#### Effectiveness

defined as the extent to which the legislation contains mechanisms necessary to achieve legislative objectives relating to the management of the priority waste streams.



#### Efficiency

defined as the extent to which the legislation makes provision for the allocation of responsibilities and resources (personnel, information, financial) to allow fulfilment of legislative requirements.



#### Impact

defined as the contribution the legislation makes to waste management and environmental protection from waste-related pollution.

Based on the evaluation of the Cook Islands' legislation against the criteria, gaps in existing legislation relating to waste were identified. These gaps provide a basis for understanding what opportunities exist for the Cook Islands to develop and/or implement additional legislative instruments to in achieving waste management and environmental outcomes.

## Overview of the legal system

The Cook Islands is a self-governing country in free association with New Zealand. It comprises 15 islands with a total land area of 237 square kilometres, spread over an ocean area of 2 million square kilometres.

The Cook Islands became a British Protectorate in 1888. In 1901 it was annexed by the British colony of New Zealand. In 1965 the New Zealand Parliament passed the Cook Islands Constitution Act 1964 (NZ) which gave the Cook Islands self-government founded upon its own written constitution. The Cook Islands is a self-governing democratic State, responsible for enacting legislation and entering into international agreements. New Zealand remains responsible for Cook Islands' defence and some aspects of external affairs.

The Cook Islands has a Westminster system of parliament. The parliament is unicameral. There are three tiers of courts.

The Cook Islands has a common law legal system. Sources of law are the Constitution (as the supreme law), legislation enacted by the Cook Islands parliament and some New Zealand and English statutes that remain in force for the country, common law, ordinances and by-laws of island councils, and customary law in relation to land and customary practices.

## Proposed Processes to Amend the Waste Management Legislative Framework

At the date of this assessment, the Cook Islands are in the middle of significant, comprehensive reforms to their laws and policies on waste management. The *Solid and Hazardous Waste Bill*, currently under development, will bring together existing legislation, fill gaps, and introduce import bans and sustainable financing mechanisms for waste management.

Policy initiatives supporting this legislative reform include:

- the *Solid Waste Management Policy 2016-2026*
- the *Single-Use Plastic Ban Policy 2018-2023*
- the *National Solid Waste Management Strategy 2013-2016* (which will also be updated)
- the *National Health Strategic Plan 2017-2021*
- the *Sanitation (Wastewater Management) Policy 2016*
- the *National Water Policy 2016*.

Other significant legislative and policy developments that are in the pipeline in the Cook Islands include:

- the *National Environment Policy*
- a review of the *National Environment Act*
- the planned *Solid and Hazardous Waste Bill*



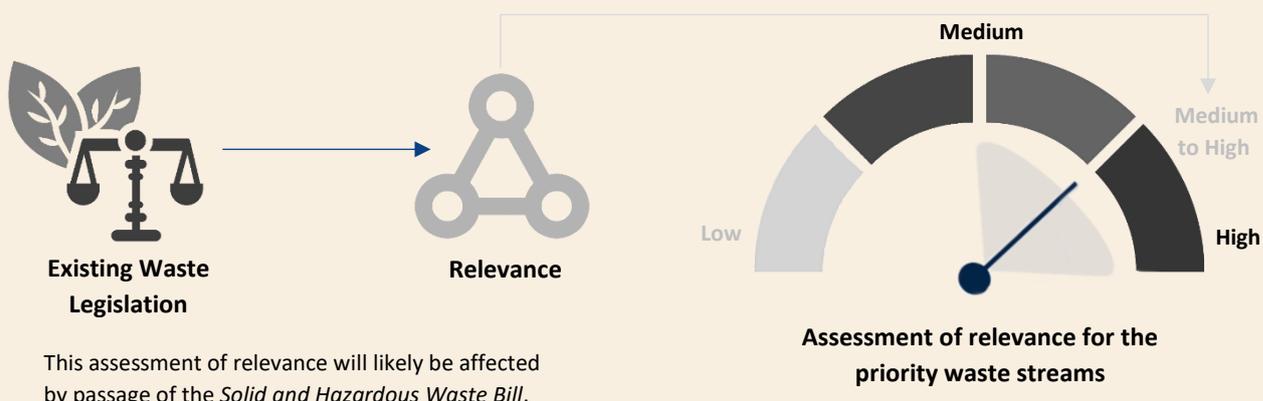
The following sections provide a cumulative, qualitative assessment of the Cook Islands' existing legislation relating to waste against the evaluation criteria. It is noted that the *Solid and Hazardous Waste Bill* is likely to amend the existing legislative framework for waste management significantly once the Bill has been tabled and passed through Parliament. As such, the assessment focuses primarily on experience with the existing legislative framework, drawing on the reflections of in-country interviewees and survey respondents, rather than providing an evaluation of specific legislative provisions.

## Legislative Assessment

This section contains a qualitative legislative assessment for the Cook Islands against the evaluation criteria: Relevance, Coherence, Effectiveness, Efficiency, Impact. While ratings against the criteria are classified on a scale of low to high, the ratings reflect an assessment of the performance of the Cook Islands' waste-related laws in their specific operating context.

A glossary of legal terms used in the report is provided in **Annex 1**.

### Relevance



It is understood that the *Solid and Hazardous Waste Bill* will make a definitional distinction between solid and hazardous waste, as well as providing for other definitions of specific waste streams. However, that Bill is not included for any specific provisions in this assessment, as the Bill has not yet been tabled in Parliament and is not publicly available.

Definitional distinctions between waste streams can be found in other pieces of legislation adopted by countries in the Pacific region and can enhance the overall relevance of legislation for priority waste streams given that they allow for a targeted approach to waste management.

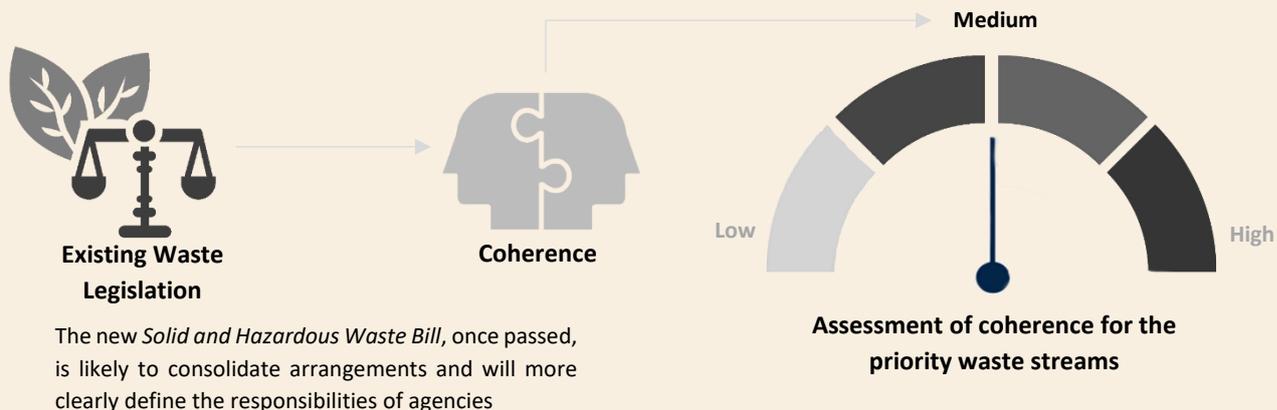
To determine relevance, consideration of the various legislative definitions is included in Table 3.

**Table 6: Definitions of waste in Cook Islands' legislation**

Legislation	Definitions
The Environment Act 2003	<p>The Act defines "Pollution" as the introduction, either directly or indirectly, of substances or energy into the environment, which results in -</p> <ul style="list-style-type: none"> <li>(a) deleterious effects that are harmful to living resources or marine life; or</li> <li>(b) hazards to human health; or</li> <li>(c) hindrance to marine activities including fishing and other legitimate uses of the sea; or</li> <li>(d) impairment of quality for use of water, air, or soil; or</li> <li>(e) reduction of amenities; or</li> <li>(f) the creation of a nuisance.</li> </ul> <p>Part 5 outlines requirements relating to Environmental Impact Assessments (EIAs), and Section 36(13) states that the designation of land for the disposal of any kind of waste is deemed to be an activity likely to cause significant environmental impacts, therefore requiring an EIA permit.</p> <p>Part 7 relates to the control of litter.</p> <ul style="list-style-type: none"> <li>• 'Litter' is defined in Section 44 as including 'any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, sewage, or waste matter, or any other thing of a like nature'.</li> <li>• Section 46 allows the Minister to designate or approve any land as an area to be used by the public for the disposal of waste. It is noted in Section 46(6) that this section is subject to Section 36(13), requiring an EIA. Section 47 allows Environment Officers to issue notices requiring occupiers of private land to clear litter.</li> <li>• Section 51 makes pollution of Cook Islands waters and inland waters an offence.</li> <li>• Section 54 allows regulations to impose a levy on commercial establishments degrading water quality, to be deposited into the Environment Protection Fund.</li> <li>• Section 56 makes it an offence to dispose of any toxic chemical or its waste in a manner likely to harm the environment.</li> <li>• Section 61 establishes an Environment Protection Fund, to be expended on, among other things, protection from pollution.</li> </ul> <p>At present, the <i>Environment Act 2003</i> (administered by the NES), provides that a project permit is required to undertake any activities that cause or are likely to cause significant environmental impacts (Section 36(1)). While the term 'significant environmental impacts' is not defined in the Act, Section 36(13) provides that any designation or re-issue of approval of any land for disposal of any kind of waste is an activity that is likely to cause significant environmental impacts and therefore requires a permit. Accordingly, landfills are activities that require the issuance of a project permit.</p> <p>Under the <i>Environment Act</i>, any application for a project permit must include an EIA. The EIA sets out the impacts of the project on the environment, the proposed action to mitigate adverse environmental effects and a plan to monitor environmental impacts, as well as a discussion of alternatives to the proposed project (Section 36(3)). EIAs would therefore generally include consideration of any potential waste impacts of a development, including impacts caused by wastewater.</p>
Environment (Atiu and Takutea) Regulation 2008	<p>The <i>Environment (Atiu and Takutea) Regulation 2008</i> apply the definitions of 'pollution' and 'litter' used in the <i>Environment Act</i>. The scope of the regulation is further elaborated by definitions found in regulation 3, namely:</p> <ul style="list-style-type: none"> <li>a. 'Disposal and treatment site' mean a place authorised by way of a permit under the regulation for the purpose of disposal, and treatment for disposal, of waste or litter.</li> <li>b. 'Hazardous waste' means a waste substance likely to cause injury to a person or cause great risk to the environment; and</li> </ul>

Legislation	Definitions
The Public Health Act 2004	<p>c. 'Sewage' means any drainage and other wastes from any form of toilets, urinals, and W.C. scuppers; drainage from medicinal premises, including dispensaries and sick bays, by way of wash basins, wash tubs and scuppers located in such premises; and drainage from spaces containing living animals.</p> <p>The <i>Environment (Mitiaro) Regulation 2008</i> include similar provisions relating to environmental health and waste management to those of the <i>Environment (Atiu and Takutea) Regulation 2008</i>. The scope of these provisions is again defined by regulation 3, which includes the same definitions articulated above.</p> <p>The existing provisions of the <i>Environment Act</i> relating to permitting and EIAs, management plans and/or pollution, and the regulations, will likely continue to have relevance to waste management after the introduction of the <i>Solid and Hazardous Waste Bill</i>. However, provisions relating to littering may be affected by the Bill. In addition, all of these provisions will be affected by any future review of the <i>Environment Act</i>.</p> <p>Section 3 provides the following definitions that define the scope of the provisions of the <i>Public Health Act</i>:</p> <p>a. 'Hazardous waste' is defined as '(a) meaning any waste that is likely to be a health hazard if released into any waterway; and (b) includes the following: (i) animal waste, medical waste, or sewage; (ii) sludge, other by products, or other waste from devices, facilities, plants, or other systems that treat water, sewage, or pollution (for example, septic tanks, other sewage treatment facilities, water treatment plants, or sewage treatment plants); (iii) any other waste declared by Order in Executive Council to be hazardous waste for the purposes of this Act'.</p> <p>b. 'Sewage' is defined as '(a) meaning waterborne human waste; and (b) includes human faeces and urine; and (c) includes waste from kitchens, showers, baths, laundries'.</p> <p>c. 'Waste' is defined to include the following: '(a) Garbage, refuse, or litter; (b) Hazardous waste; (c) Wastewater; (d) Building and demolition waste; (e) Other discarded or superfluous things from open fires, incinerators, or industrial, commercial, mining, agricultural, community, or other activities; (f) Any other thing declared to be waste by Order in Executive Council for the purposes of this Act.'</p> <p>d. 'Wastewater' is defined as '(a) meaning dissolved or suspended waterborne waste; and (b) includes sewage'.</p>
Dangerous Goods Act 1984	<p>Dangerous goods are defined in the Schedule to the Act and include gasses, flammable liquids/solids, oxidising substances, poisons, radioactive substances, and corrosives.</p>

## Coherence



The *Solid Waste Management Policy 2016-2026* notes that the lack of specific legislation on solid and hazardous waste in the Cook Islands has heightened ambiguity regarding roles and responsibilities relating to waste management. At the time the policy was drafted, the management of solid waste required collaboration between government agencies (NES, ICI, MoH) which in turn led to 'inconsistencies and confusion in the community'.

It is expected that greater legislative coordination will be achieved through the introduction of the *Solid and Hazardous Waste Bill*. The *Solid Waste Management Policy* indicates (and interviewees confirmed) that ICI has been taking the lead as the focal point for coordination on solid waste management, including potentially for the outer islands. Although it would be desirable for there to be further consolidation of responsibilities with ICI, resourcing constraints mean that a shared responsibility approach will likely still be important in the future.

The expectation is that responsibilities will be:

- ICI –for overall solid waste management
- NES –for environmental permits, pollution controls, and hazardous waste, except medical waste
- MoH – for dealing with medical waste, liquid waste in terms of sanitation, and public health aspects of waste management
- Island Governments - for waste management in Te Pa Enea on their respective islands

## Effectiveness



Assessed on the basis that existing provisions relating to wastes are spread across several pieces of legislation, especially the *Public Health Act* and the *Environment Act*, leading to a split between the environmental and public health aspects of waste management, and lacking any specific requirements for different waste streams, promotion of waste recovery and recycling, and measures for ensuring sustainable funding of waste management activities.

The objectives of the National Government relating to sustainable development are set out in the Cook Islands' *Te Kaveinga Nui: National Sustainable Development Plan 2016-2020*. The Plan includes a number of National Development Goals of relevance to waste management:

- 
- promote sustainable practices and effectively manage solid and hazardous waste (goal 3), (noting key indicators for this goal are to increase recycling and to manage hazardous waste effectively)
- sustainable management of water and sanitation (goal 4)
- promoting sustainable land use, management of terrestrial ecosystems and protecting biodiversity (goal 11)
- sustainable management of oceans, lagoons, and marine resources (goal 12)

The *Solid Waste Management Policy* builds on these general development goals by stating the vision of the Cook Islands as being:

*"...an informed and proactive community taking responsibility for sustainable solid waste management, aspiring towards Zero Waste Cook Islands".*

The policy is informed by principles of polluter pays, precaution and community consultation. It is also informed by best practice waste-specific approaches such as the '4Rs' waste hierarchy principle (refuse, reduce, reuse, and recycle) and the proximity principle (stating that solid waste should be managed as close to the source as possible, based on a recognition that producers of waste need to take responsibility for its management and that there are environmental and financial costs associated with transporting waste over distances).

Examples of specific legislative initiatives in the Cook Islands that reflect these principles include the advance disposal fee and the proposed ban on single-use plastics that will be incorporated in the *Solid and Hazardous Waste Bill*.

## Efficiency

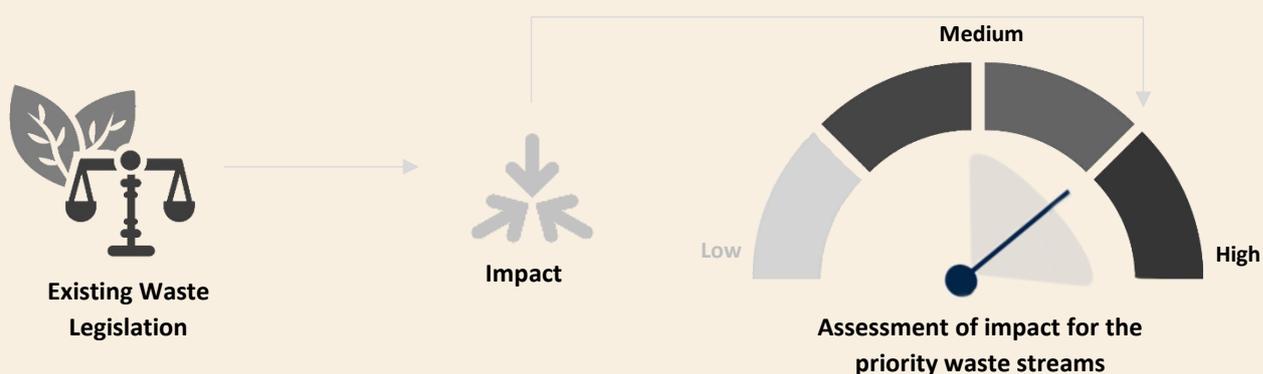


The efficiency of the Cook Islands' waste management legislation is assessed as medium. The *Solid Waste Management Policy* notes that the Cook Islands presently faces challenges in managing solid waste due to a lack of specific legislation, limited institutional capacity, high transport costs, lack of investment in related infrastructure and poor management of hazardous waste.

To address the existing inefficiencies, the Cook Islands has already taken steps, such as drafting the new *Solid and Hazardous Waste Bill* and ICI taking a lead role for the management of solid waste in the country.

Assistance for specific initiatives (e.g., the advance disposal fee, single-use plastic ban, promotion, of effective hazardous waste management) and potentially management of waste streams, is likely to be needed by the relevant government departments, in the future.

## Impact



The legislative framework of the Cook Islands is well-developed and makes a significant contribution to preventing waste-related pollution, meaning that its impact is assessed as medium-to-high. Gaps identified include the separation of environmental and public health responsibilities, and limited coverage of specific waste categories of concern such as hazardous wastes and e-wastes.

The new *Solid and Hazardous Waste Bill* under development represents an acknowledgement of deficiencies with current legislative arrangements and a concerted effort to address these gaps.

Features of the existing legislative framework that contribute to making a *positive impact* on waste management in the Cook Islands include:

- permitting and EIA requirements for activities with a significant environmental impact
- controls on pollution, including from littering, under the *Environment Act* and regulations that apply at the local level
- clear responsibilities for the management of waste-related infrastructure such as the main landfill and recycling centre, and wastewater infrastructure
- controls on hazardous wastes and activities that give rise to a public health nuisance.

Given that the new *Solid and Hazardous Waste Bill* has been significantly informed by the Solid Waste Management Policy, it is relevant to note the objectives and supporting policies contained in this document. These are to:

1. minimise the generation of solid waste
2. develop a clear and robust institutional and legislative framework
3. develop appropriate waste management infrastructure including separation and storage facilities
4. establish sustainable financing
5. promote individual and community responsibility for solid waste management
6. develop a strong monitoring and evaluation system.

These policy objectives suggest that the new *Solid and Hazardous Waste Bill*, and its support for a consolidated approach to waste management in the Cook Islands, will enhance the capacity of the legislative framework to have a positive impact on waste management and environmental protection in the country.

# SECTION 3: CAPACITY ASSESSMENT



This qualitative assessment of the Cook Islands' capacity to engage in different aspects of waste governance is on a scale ranging from low to high. It considered drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under relevant Multilateral Environmental Agreements (MEAs).

# Methodology

## Approach and Elements

This legislative capacity assessment was undertaken utilising a qualitative approach, evaluating the capacity of the Cook Islands' to engage in different aspects of waste governance on a scale ranging from low to high.

The evaluation was made based on the following aspects of waste management legislation/governance:



### Drafting

Relating to processes for the drafting of new, modified or additional legislation, including the availability of legal expertise, personnel and supporting technical knowledge or information.



### Enactment

Relating to processes for enacting new, modified or additional legislation, including the existence of appropriate powers to legislate on the topic and relevant obligations of the country under international conventions and agreements, such as MEAs, as well as trade and investment agreements.



### Implementation

Capacity to carry out existing or proposed legislation, including the availability of appropriate personnel, information, powers, administrative delegations, and resources.



### Compliance and Enforcement

Capacity to ensure those bound by obligations under legislation comply with those obligations, as well as the capacity to prosecute or otherwise take action in response to breaches of legislative requirements, including the availability of enforcement personnel, powers, administrative delegations, tribunals for bringing enforcement actions and resources



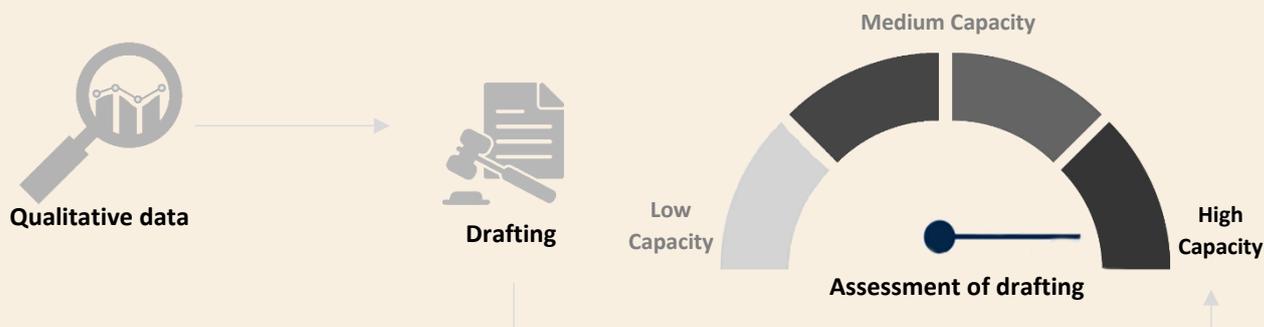
### Reporting under relevant MEAs

Capacity to comply with reporting and other notification requirements specified under relevant MEAs to which the participating country is party, including availability of data, personnel and resources to produce the required reports. The assessment of MEA reporting compliance adopted a coding approach that rated the countries' level of compliance based on several indicators.

## Capacity Assessment

This section contains a qualitative assessment of the Cook Islands' capacity with respect to drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under the MEAs to which it is party.

### Drafting



The Cook Islands has a high capacity to support drafting of legislation for waste governance, as evidenced by the process underway to draft the *Solid and Hazardous Waste Bill*, which will effect major reforms to the Cook Islands' waste management legislative framework and includes a series of innovative legal mechanisms, such as the prohibition on single-use plastic bags and an advance disposal fee.

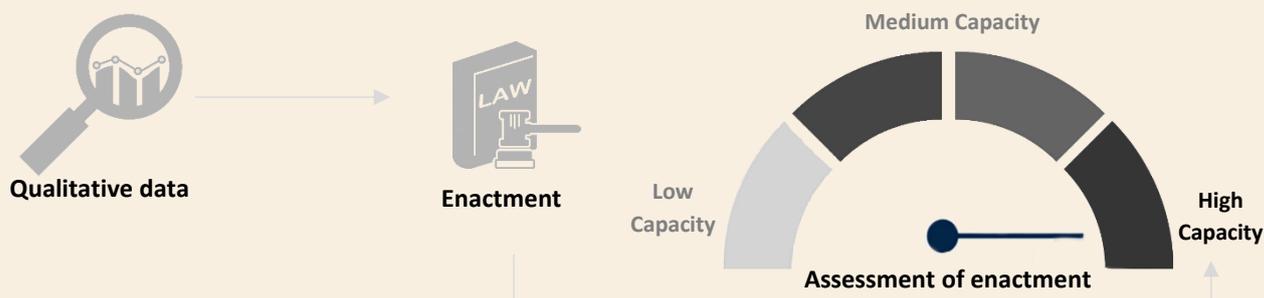
While the Cook Islands' have well-established guidelines and practices in place to support the drafting of new legislation, including waste-related legislation and policies, a shortage of legal drafting skills both with the government and Crown law can create challenges. Cook Islands' engages outside experts to augment internal capacity and to provide specialised assistance to ministerial or agency teams for drafting supporting policies and Bills. Additional support is often gained from the New Zealand Parliamentary Council Office (NZPCO) which provides ongoing assistance to the Cook Islands for both legislative drafting services and training of Crown Law counsel. The continued capacity building of local staff is a valued part of this relationship.

The process to draft and enact legislation in the Cook Islands is described in **Figure 1**.

Figure 1: Process of Legislative Reform or Development of New Legislation in the form of a Bill



## Enactment



The Cook Islands has a high capacity to enact laws relating to a range of waste management issues.

The Cook Islands is responsible for enacting its own legislation and is fully competent to enter into international agreements and conduct its own international relations, as seen by the Cook Islands becoming party to several international treaties relating to waste management, which are incorporated into the country's domestic law.

The Cook Islands' Constitution is the supreme law of the Cook Islands (section 4, Cook Islands Constitution Act 1964 (NZ)). The Queen of the United Kingdom is the Head of State, with the Executive consisting of the Prime Minister and Cabinet. The Legislature is the Parliament of the Cook Islands. The Parliament is the lawmaking arm of the government. The procedure for enacting laws (moving from Bills to Acts) is set out in the *Standing Orders of the Parliament of the Cook Islands* and the *Handbook for the Parliament of the Cook Islands*.

### **Cook Islands Constitution**

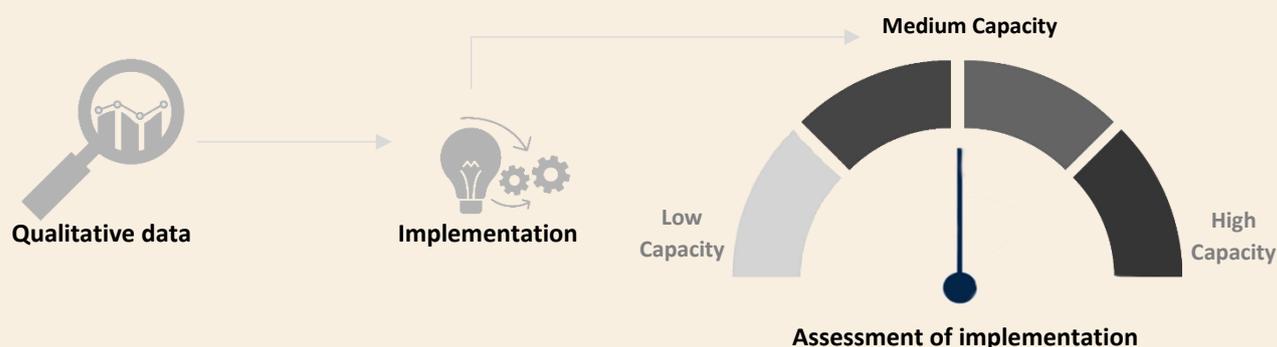
Part IVA of the Constitution provides for a number of fundamental human rights and freedoms:

- Article 39 of the Constitution, the Parliament has broad powers to make laws for the 'peace, order and good government' of the Cook Islands, subject to the provisions of the Constitution.
- Article 66A preserves the importance of customary law in the Cook Islands. It provides that until such time as an Act otherwise provides, custom and usage shall have effect as part of the law of the Cook Islands, so long as such custom or usage is not inconsistent with a provision of the Constitution or any other enactment. The wording of the article is 'Parliament shall have particular regard to the customs, traditions, usages, and values of the indigenous people of the Cook Islands'.
- Article 77 provides that law existing prior to the enactment of the Constitution is to continue until it is repealed. It is expected that the *Solid and Hazardous Waste Bill* will include provisions enabling the development of regulations to implement certain provisions of the Act. Island Councils are also important in administering waste management laws.

The broad powers of the Cook Islands' Parliament to legislate mean that it has significant scope to enact laws on a wide range of matters relevant for waste management. It is expected that the *Solid and Hazardous Waste Bill* will include general provisions that empower relevant departments to draft regulations, which will enable them to implement the provisions of the Act.

The high capacity of the Cook Islands' system for the enactment of new laws on waste management issues is illustrated by the process that has been followed for the pending *Solid and Hazardous Waste Bill*. This process has involved extensive consultations between government agencies and the legislation was proceeded by a detailed Solid Waste Management Policy that scoped administrative arrangements for implementation of the new legislation.

## Implementation



The Cook Islands is assessed to have medium implementation capacity, as the coordination of the administration of the new *Solid and Hazardous Waste Bill* and waste management measures more generally, will continue to require responsibilities to be shared across ministries and agencies (ICI, NES, MoH and the Island Governments).

The *Solid Waste Management Policy* foreshadowed that a single agency (proposed to be the Water, Waste and Sanitation Division – WATSAN – in the ICI) could be made responsible for solid waste, however, this may be difficult in practice due to the following constraints:

- Availability of suitably trained and qualified staff.
- Lack of dedicated financial resources to administer waste legislation, although it is hoped that the advance disposal fee system, to be introduced by the *Solid and Hazardous Waste Bill*, will assist in providing sustainable resourcing for waste management administration into the future. At this stage, however, ministries and agencies will continue to draw on their expertise in specific areas of waste management and seek to work together to implement the new Bill.
- Lack of coordination on waste management issues with the outer islands. Under existing legislative arrangements, Island Governments are responsible for administering their own waste management systems. However, outer islands may not have appropriate waste management systems or disposal sites equivalent to the facilities on Rarotonga or Aitutaki. Communities on outer islands still practise open burning, and have limited ability to remove hazardous waste, such as asbestos, from old government buildings or safely handle and dispose of other wastes such as used batteries, e-wastes, bulky wastes and recyclables. If there was additional resourcing capacity, outer island waste segregation depots could be established to provide services to these communities.
- Lack of space for storage and disposal of waste. The current landfill on Rarotonga is close to capacity. It was originally set to close in 2020 but, according to a news report, its lifespan has been extended through regular compaction. Given the capacity constraints associated with being a small island state, the Cook Islands are considering options, first, to minimise waste and, second, to dispose of waste in an environmentally sound manner offshore, or onshore if an appropriate technology is viable, noting the issues with costs of shipping in this regard.
- Limited capacity for monitoring of waste-related activities and their environmental impact. Waste auditing and water quality testing occur on an *ad hoc* basis, and there is no monitoring for ground water discharges from the landfills. It is noted that monthly surface water testing is undertaken around the island of Rarotonga.

Despite the significant challenges associated with implementing waste-related laws in the Cook Islands, there are ongoing efforts to improve implementation capacity. The new *Solid and Hazardous Waste Bill* should assist by consolidating administrative arrangements and providing clearer lines of authority distributed amongst relevant agencies.

## Compliance and enforcement capacity



Compliance and enforcement capacity in the Cook Islands for its waste management legislation is assessed as medium. The Cook Islands either have in place, or are in the process of reforming, institutional infrastructure to facilitate compliance with, and enforcement of, its laws related to waste, including:

- Legislative requirements for permits (including EIA assessments) and management plans
- Powers for officers to inspect premises, issue clean up notices and issue stop orders
- Prohibitions on improper disposal of wastes (including burning plastic waste and tyres)
- Provision of offences for littering or dumping, pollution controls, and controls for hazardous chemicals and waste
- Prohibitions on the importation of certain items i.e., single-use plastic policy

The following compliance-related matters were noted during the assessment.



### Information Management

Information plays an important role in effective compliance and enforcement.

- Tracking and monitoring wastes – Noting that sometimes it is difficult to find who is responsible for littering and/or dumping of wastes, which is one reason the advance disposal fee which incentivises good behaviour (e.g., recycling and re-use), rather than seeking simply to punish wrongdoers, tracking, and monitoring wastes is being considered by the government. Collecting information will support the prosecution of serious breaches of the legislation.
- Education and awareness to support community measures and behavioural change around waste issues (e.g., burning of waste) are critical.



### Investigations

Developing capacity to gather evidence would assist the delivery of quality compliance and enforcement activities. The assessment identified the need for baseline training to enforce regulation, especially at the ministry level. Such training should include:

- how to undertake investigations
- what questions to ask during enforcement investigations
- what is required for quality and admissible evidence for a prosecution

While judicial officers and Crown Law can do prosecutions, there may be a gap at the level of investigation by agencies in terms of evidential sufficiency.



### Prosecutions

At the level of prosecutions and enforcement, remedial efforts ('putting things right' through e.g., clean up notices) are included as elements of the enforcement strategy. The idea of rewarding people for thinking and doing environmentally sustainable behaviour at the front end (rather than the back end through fines and punishments) works well in small island communities where relationships are important and can also minimise resourcing needs for enforcement compared with investigations, prosecutions, and court actions. The assessment noted there have been recent efforts to establish a mediation centre, with training from New Zealand officials on mediation skills. This potentially offers a practical opportunity to deal with civil actions involving offences under waste-related laws.



### Offences

The assessment noted there may be a need to strengthen penalties for waste management related offences. There is an opportunity to implement a range of mechanisms to support effective enforcement and compliance, from on-the-spot fines, to clean up notices, and ultimately prosecutions. This is reportedly included in the *Solid and Hazardous Waste Bill*.

The assessment identified prosecution resourcing constraints in 2016, the Cook Islands PILON Country Report noted the loss of two prosecutors (from a staff of five lawyers) to private practice and judicial appointments in that year.

Further, the 2017 PILON Country Report noted the lack of enforcement capacity in the NES for enforcement of laws on environmental pollution, enforcement of standards and EIA enforcement as 'a serious concern'. Additionally, the report noted that there had been no prosecutions by the NES, and accordingly, capacity-building for achieving successful prosecutions was likely to be necessary.

## MEA reporting



The Cook Islands is party to the Basel, Stockholm, Rotterdam, and Waigani Conventions. The Cook Islands' level of compliance with notification, information sharing and reporting requirements under the MEAs has varied considerably across the different conventions, with compliance with the Rotterdam Convention being high, but reporting against the Basel Convention only having been completed once in 2004. Based on the evidence available, the Cook Islands therefore has a medium capacity to support reporting under relevant MEAs.

The *Environment Act 2003* is presently the legislative means through which the Cook Islands implements its obligations under international conventions, with the NES as the principal implementing agency. Specific functions of the NES under the *Environment Act* are to:

- ensure the environmentally safe disposal of toxic chemicals and wastes (Section 9(l))
- review the progress of implementation of international conventions that the Cook Islands has ratified (Section 9 (m))
- implement, coordinate, and negotiate any projects provided under any regional or international conventions, treaties, protocols or agendas relating to the environment, to which the Cook Islands is a party or signatory (Section 9(n))

It is anticipated that enactment of the *Solid and Hazardous Waste Bill* will shift functions ensuring Cook Islands compliance with relevant international conventions regarding the disposal of solid or hazardous wastes within the ambit of that legislation. Reporting obligations under certain of the MEAs appear to have received, or be receiving, greater attention due to the existence of dedicated projects, administering bodies or subordinate legislation that supports that activity.

Examples include:

- a. Compliance with notification and information sharing commitments under the Rotterdam Convention is high, with the Cook Islands having notified all 51 required decisions on import under Article 10 for pesticides and other regulated industrial chemicals. This is likely the result of having a dedicated Pesticides Board operating under the Pesticides Act 1987, with specific responsibility for registration of imported pesticides.
- b. Domestic capacity to implement the Stockholm Convention appears to have been boosted following submission of a National Implementation Plan in 2011 and creation of the POPs project by the NES. The Cook Islands has produced an updated version of its NIP, which has been validated by UNEP but has not yet been officially endorsed by its national government and submitted to the Stockholm Convention Secretariat.
- c. In the case of ozone depleting substances, including certain pre-polymers used in making rigid plastic foams, regulation and reporting appears to have been enhanced by having specific responsibilities entrusted to the Customs department and the National Ozone Unit in the NES, as well as a relatively long-standing, dedicated Ozone Project in the NES.
- d. Although not yet a party, the Cook Islands is preparing a Minamata initial assessment with the assistance of the Biodiversity Research Institute under a program funded by GEF and UNEP. This assessment should help pave the way for the country's ratification of the MEA and facilitate subsequent implementation efforts.

By contrast, a lack of capacity seems to have hampered compliance with reporting and other notification and information sharing obligations under the Basel Convention and the regional equivalent, the Waigani Convention. While the Cook Islands did submit its first national report under the Waigani Convention in 2017 (for the period 2012-2016), this was only the second report submitted by the country after a first 2004 report, submitted in 2006.

In replying to a questionnaire issued by the Basel Convention secretariat about the Cook Islands' lack of national reporting under that MEA, the responses indicated that reporting was limited by a lack of data, limited capacity to coordinate the collection of data, a limited number of staff and insufficient training of staff.

These findings strongly suggest that although the Cook Islands has relatively good capacity to implement MEAs focused on importation of toxic chemicals and pesticides (Stockholm and Rotterdam Conventions), its capacity to implement and report under specific waste conventions like the Basel and Waigani Conventions is more limited at present.

It is possible that the enhanced inter-ministry coordination proposed with enactment and implementation of the new *Solid and Hazardous Waste Bill* may help address some of these capacity constraints.

**Table 7: Compliance with MEA reporting requirements**

<b>Relevant MEAs party to</b>	<b>Comments</b>
<i>Basel</i>	Competent authority and focal point designated.  National report provided for 2004 but no reports provided since. Response to Secretariat questionnaire on lack of reporting identified as issues: lack of data, coordinating collection of data, limited number of staff and insufficient training.  March 2019: Secretariat referred Cook Islands to Implementation Committee of Convention on basis of lack of reporting.
<i>Stockholm</i>	Official contact point notified.  National implementation plan (NIP) submitted 10 March 2011. POPs project initiated to help Cook Islands fulfil obligations under Convention. Has produced updated NIP that has been verified by UNEP but not yet endorsed by national government or submitted to Stockholm Convention Secretariat.  No reports submitted in first four reporting cycles.
<i>Rotterdam</i>	Designated National Authority notified.  All import responses provided.
<i>Waigani</i>	Competent authority and focal point designated (updated 28 Jun 2014).  First national report submitted in 2017 for period 2012-2016.

## **SECTION 4: LEGISLATIVE OPPORTUNITIES**



The opportunities identified in this section have been drawn from the findings of the legislative assessment and capacity assessment to provide guidance to the Cook Islands on possible actions they may wish to take to strengthen the legislative frameworks governing waste management

## Legislative models for waste governance

Waste management has become a pressing concern for the PacWastePlus participating countries. These nations are impacted by growing levels of hazardous and non-hazardous wastes, which cause environmental pollution, and may threaten human health. The mounting levels of waste place socio-economic burdens on these nations and may pose risks to important cultural values and customary land ownership that distinguish these countries and the region. Internationally, Goal 12 of the 2015 United Nations Sustainable Development Goals calls for ensuring sustainable consumption and production patterns.

### Trends in waste governance across the participating countries

Waste is a particular problem for many Pacific region countries due to increasing imports of waste-producing items (such as electronic and consumer goods), limited in-country facilities for collection, treatment and storage of many wastes, and a reduced availability of suitable land for conventional waste disposal methods, such as landfills.

In several cases, participating countries have adopted innovative legislation and instruments to better manage and minimise waste, such as: dedicated legislation for waste management, measures to incentivise recovery and recycling, prohibitions on specific waste-generating items entering the country, and measures to promote waste minimisation and cost recovery. Several Pacific countries are also exploring new institutional arrangements, such as identifying lead agency responsibilities for coordination of waste management laws, arrangements for more effectively managing responsibilities across different levels of government, and/or approaches to increase private sector involvement in waste management through licencing regimes and partnerships for extended producer responsibility.

Many countries in the Pacific adopted applicable laws and institutional structures for managing wastes some time ago that may no longer serve current needs. Significant challenges remain in some nations in establishing a firm economic basis to underpin waste management within the relevant legal frameworks, and in dealing with longstanding waste management issues, such as the sorting of wastes and their diversion, where possible, from landfill.

Increasing attention is being directed to questions of how to promote effective implementation of existing laws and to the development of new legislation and regulation for waste management if this is required. This raises critical issues for resourcing of various components of the waste management cycle within each nation, as well as the possibilities for regionally harmonised approaches. A range of ancillary legislation beyond specific waste management laws may be important for facilitating implementation, and there is a need in some participating countries to develop more coherent cross-agency referral models.

Compliance with, and enforcement of, waste management laws is also vital to their effectiveness and impact. At the same time, these measures must be sensitive to the community context, realistic in terms of the available staffing and technical expertise in government departments and municipal organisations, and cognisant of the competing compliance priorities in the legal system. There is scope within the legislation of several participating countries to widen the range of compliance and enforcement measures beyond monetary penalties and criminal prosecutions.

In addition, there are opportunities to broaden the engagement with communities and the non-governmental sector, and to provide a legislative basis or more formal designation for measures such as community education, consultation, and partnerships in managing wastes, particularly those of a non-hazardous nature. The participation of the private sector, whether as waste collector contractors, operators of recycling companies, sewage transporters or tourism agents, is likewise important for effective waste management laws. Regulation needs to be carefully targeted but also to ensure transparency and accountability.

## Key recommendations to increase national legislative and institutional capacity

Overall, the existing legislation of the Cook Islands for waste governance was assessed as performing at a medium to medium-to-high level in the Legislative Assessment report, with the potential for significant additional improvements as the Solid and Hazardous Waste Bill 2020 is enacted and implemented. The capacity of the Cook Islands' with respect to various aspects of the administration of its waste legislative framework was also assessed overall as medium-to-high, with the greatest needs arising in respect of support for implementation, compliance, and enforcement of laws.

Existing legislation for waste management in the Cook Islands is found across several laws, including environmental legislation, infrastructure legislation and public health legislation. The principal model applied in the Cook Islands' waste management laws is the environmental EIA/licensing model, coupled with the scope to adopt regulations for specific waste streams.

The Cook Islands is currently undergoing a significant reform of its laws governing waste with the development of a new *Solid and Hazardous Waste Bill*. This Bill is expected to include provision for an advance disposal fee to support extended producer/importer responsibility for items that otherwise give rise to wastes, and to implement the Cook Islands' policy commitments to ban single-use plastics and phase-out their domestic use.

Key actions recommended for the Cook Islands to increase its national legislative and institutional capacity to manage wastes and improve related socio-environmental outcomes focus on support to implement the Solid and Hazardous Waste Bill 2020 once enacted by the Cook Islands' parliament. This will institute a model of dedicated waste management legislation for the Cook Islands. Further development of this new legislation could involve drafting regulations and standards to achieve safe, effective, and efficient collection of waste, and appropriate segregation, storage, and disposal of wastes, especially hazardous and e-wastes.

### Opportunities for improving legislative instruments to support improved waste management

- a) Legislative arrangements to support separation and storage of wastes, especially for hazardous waste and e-waste.
- b) Legislation to support more onshore waste recovery capability or waste-to-energy generation, if cost-effective.
- c) Implementation of the new legislative tools under the *Solid and Hazardous Waste Bill*, once enacted, such as the advance disposal fee and the ban on single-use plastics.

### Recommendations to address legislative capacity needs

#### Governance

- a) Development of a collaborative approach to waste management implementation, perhaps with designation of a single lead agency.
- b) Extend waste governance to the outer islands under the auspices of a national lead agency such as ICI.

#### Implementation of Legislation

- a) Coordination on waste management issues between the main island of Rarotonga and the outer islands, for example, to facilitate shipping of wastes from the outer islands to the main island for disposal.
- b) Resources to support enhanced recycling efforts or regional options for the export of wastes (especially considering the capacity constraints at the main Rarotonga landfill).
- c) Sustainable financing for waste management administration, to be achieved through the implementation of financing mechanisms in the Solid and Hazardous Waste Bill.
- d) Capacity-building to support data collection and submission of national reports under the Basel and Waigani Conventions.

### **Transparency & Community Consultation**

- a) Strengthen community consultation protocols, e.g., workshops and awareness-building activities to promote behavioural change and to allow community-based dispute resolution in waste management. These initiatives have relevance for rural areas and outer islands.
- b) Enhanced initiatives for transparency and community consultation with respect to waste-related regulation and new policy proposals.
- c) Review, audit and reporting against waste management targets as the new legislation is implemented, including reporting on compliance and enforcement outcomes.
- d) Support for community workshops and awareness-building activities to promote behavioural change and allow community-based dispute resolution.

### **Enforcement**

- a) Training on investigative techniques to support evidence-gathering and successful prosecutions, as well as training in alternative dispute resolution techniques, such as mediation, for enforcement officers to support effective enforcement of legislative requirements.
- b) Reviewing penalties under waste legislation and ensuring a range of compliance options.
- c) Assistance for staff in monitoring environmental impacts, such as groundwater impacts from landfill, and tracking or monitoring of wastes to allow identification of contraventions, including access to technical expertise, and testing equipment to facilitate compliance activities.

# Annex 1: Glossary of legal terms

Table 8: Glossary of legal terms

<b>Term</b>	<b>Definition</b>
<i>Accession</i>	Accession is the act by which a country accepts the offer or the opportunity to become a party to a convention already signed by other states. It has the same legal effect as ratification.
<i>Acts</i>	Also called statutes or laws. An Act is a document stating the law that has been passed by the legislature (the law-making body of government).
<i>Acts as made</i>	Also called Acts as passed, Acts as enacted, and Sessional Acts. An 'Act as made' is an Act with its contents exactly as they were when passed by the legislature.
<i>Amending Acts</i>	Amending Acts are Acts that change one or more provisions of the Principal Act, often titled, for example, as the Environment Protection (Amendment) Act. Amending Acts must also be passed by Parliament. Where amendments have not been included in the Principal Act, the Principal Act and the Amending Acts must be read together.
<i>Bills</i>	Proposed Acts. Once passed by the legislature and enacted by any formalities required in the country (for example, signature, assent, publication, or notification in the official Gazette), a bill becomes an Act.
<i>Chapter</i>	Some countries consolidate all their Acts at the same time. For example, Tonga consolidated all its legislation (both Acts and Regulations) in 2016. Each Act in the Consolidation was given a Chapter number, so the front cover of an Act in this consolidation states e.g., Environment Management Act, Chapter 47.02, 2016 Revised Edition. The Act as made was the Environment Management Act, Act 27 of 2010. 'Chapter' is often abbreviated to Cap. An Act made after the Consolidation will not have a chapter number.
<i>Code</i>	<p>Several countries are former U.S. territories and arrange legislation into Codes. Such Codes contain all the Acts enacted by the legislature that are current (in force) at the time of the compilation of the Code.</p> <p>Codes are arranged by numbered topic. Each topic is called a Title. As each Principal Act is made it is assigned to a Title. The Act may become a chapter in that Title or only a single new section in an existing chapter, or it may amend an existing chapter or section.</p> <p>Example: in the Marshall Islands, all environmental Acts are contained in Title 35: Environment. Chapter 2 of this Title is the Littering Act 1982. This is abbreviated to 35 MIRC Ch 2 i.e., Title 35 (Environment), Marshall Islands Revised Code, Chapter 2.</p> <p>Once in the Code the section numbers in an Act change because the Code numbering is consecutive. So, what was section 1 in the Act as made becomes section 201 in the Code i.e.: Chapter 2, section 1. Sections are generally denoted in Codes by the symbol §, as in U.S. legislation.</p>
<i>Consolidated Acts</i>	Comprise the Act as made and all amendments up to the date of the consolidation. For example, a 2012 consolidation of an Act originally made in 1999 will include all amendments up until 2012. They may also be known as consolidations or compilations or noted 'as amended'.
<i>Executive</i>	The Executive or the Government, is the branch which implements laws through the making of regulations and administers and enforces the laws. The Executive is also generally the branch of government that signs and ratifies international conventions.
<i>Judiciary</i>	Also, the Courts, the branch of government which interprets laws and formally determines legal disputes.
<i>Legislation</i>	The collective term for both principal (Acts) and subordinate laws (usually regulations).

<b>Term</b>	<b>Definition</b>
<i>Legislature</i>	The Legislature or the Parliament, is the branch of government which makes laws.
<i>International conventions</i>	Are also known as international agreements, and treaties. Conventions come into effect on a certain date. This is not the date the Convention takes effect in a particular country. For the Convention to take effect in a particular country, the country must become a party to the Convention. Countries may sign a Convention – this does not make it a party. Countries may ratify or accede to a Convention – this makes it a party. Following ratification or accession, written instruments evidencing the country’s consent to be bound by the convention are deposited with the Depository – this is generally the Secretary-General of the United Nations, but also, for example, the South Pacific Forum Secretariat in the case of the Waigani Convention. Once these written instruments are deposited by enough parties, the convention takes or comes into effect in the country and the country becomes a party to the convention.
<i>Principal Acts</i>	Principal Acts contain the entirety of a topic, for example, the Environment Protection Act.
<i>Provisions</i>	Provisions are individual numbered clauses within legislation. The most used provision types are: <ul style="list-style-type: none"> <li>a. Articles in Constitutions – abbreviated to Art. or art.</li> <li>b. Sections in Acts – abbreviated to s (or § in the case of Codes)</li> <li>c. Regulations within a Regulation - abbreviated to r</li> <li>d. Clauses in Schedules at the end of Acts or subordinate legislation</li> </ul>
<i>Ratification</i>	Ratification is the act by which a country indicates its consent to be bound to a convention.
<i>Subordinate legislation</i>	Subordinate legislation is also called subsidiary legislation, delegated legislation, and statutory instruments. These are collective terms. Individual pieces of subordinate legislation are most commonly called regulations, but other types of subordination legislation include: <ul style="list-style-type: none"> <li>a. Rules</li> <li>b. Ordinances</li> <li>c. By-laws</li> <li>d. Orders-in-council</li> <li>e. Executive orders</li> <li>f. Decrees</li> <li>g. Decree-Laws (this terminology is used in Timor-Leste)</li> </ul> <p>Acts (principal legislation) expressly authorise the making of subordinate legislation.</p> <p>Example: Section 121 of the Marshall Islands National Environmental Protection Act 1984 authorises the Environment Protection Authority to make regulations regarding pollutants and discharge or hazardous waste.</p> <p>Subordinate legislation is made by a person or agency other than the legislature – usually the Government Ministry or Department responsible for implementing the Act. A regulation is usually on a specific topic and contains the practical machinery to implement one or more provisions of the Act.</p> <p>Example: regulations made under Section 121 of the Marshall Islands National Environmental Protection Act 1984 include the Solid Waste Regulation 1989, the Toilet Facilities and Sewage Disposal Regulation 1990, and the Public Water Supply Regulation 1994.</p>

## Annex 2: Acronyms

Table 9: Acronyms

ACRONYM	REFERRING TO
DAC	Development Assessment Committee
ECOLEX	ECOLEX is an information service on environmental law, operated jointly by FAO, IUCN and UNEP
EIA	Environmental Impact Assessment
EU	European Union
FAOLEX	FAOLEX is a database of national legislation, policies and bilateral agreements on food, agriculture and natural resources management.
ICI	Infrastructure Cook Islands
IEA	Island Environment Authority
INFORMEA	United Nations Information Portal on Multilateral Environmental Agreements
MEA	Multilateral Environmental Agreements
MOH	Ministry of Health
NES	National Environment Service
NIP	National Implementation Plan
NGO	Non-Government Organisation
NZPCO	New Zealand Parliamentary Council Office
OECD	The Organisation for Economic Co-operation and Development
PACLI	Pacific Islands Legal Information Institute
PILON	Pacific Islands Law Officers' Network
POPS	Persistent Organic Pollutants
SPREP	Secretariat of the Pacific Regional Environment Programme
UOM	University of Melbourne
UNEP	United Nations Environment Program

## Annex 3: Priority Waste Definitions

The PacWastePlus definitions of the priority waste streams included in the programme are detailed below.

Please note, PacWastePlus programme's waste definitions *do not always directly correspond with definitions found in national legislation*.

For example, public health and water/sanitation legislation may reference 'sewage' within concepts of wastewater or broader definitions of solid waste. Where countries' legislation dealing with wastewater or other waste streams includes sewage in the legislative definitions of wastes, these references have been retained for this assessment. This ensures that of the assessment's reproduction of the legislative provisions are accurate, even though human wastes are not encompassed within the PacWastePlus definition of 'wastewater'.

**Table 10: PacWastePlus programme definitions**

<b>Priority waste</b>	<b>Definition/understanding</b>
<i>Asbestos</i>	Asbestos refers to six naturally occurring silicate minerals composing of long and thin fibrous crystals. These crystals contain many microscopic fibres that can be released into the atmosphere by abrasion and other processes. Asbestos has been used as a building material for many years. Natural disasters can increase the risk of exposure to asbestos found in damaged building materials.
<i>Healthcare waste</i>	Waste generated by health care facilities. Includes used needles and syringes, soiled dressings, body parts, diagnostic samples, blood, chemicals, pharmaceuticals, medical devices, and radioactive materials. It is essential that all medical waste materials are segregated at the point of generation, appropriately treated, and disposed of safely.
<i>E-waste</i>	Electronic waste or e-waste refers to discarded electrical or electronic devices. Used electronics which are destined for refurbishment, reuse, resale, material recovery, or disposal are also considered e-waste. Electronic scrap components, such as CPUs, contain potentially harmful materials such as lead, cadmium, beryllium, or brominated flame retardants.
<i>Organic waste</i>	Organic waste is waste that is biodegradable and has the potential to disintegrate. These wastes often include vegetable and fruit peelings, paper, and food waste. Organic waste is typically a significant proportion of a waste stream, and if managed through landfill creates leachate and harmful greenhouse gases. When processed appropriately, organic waste can add significant value to soil quality and potentially increase food production/soil water retention and help in elimination of invasive weeds.
<i>Disaster waste</i>	The generated waste during a natural disaster i.e., a sudden devastating event (cyclone, flood, earthquake, tsunami, fire etc) that seriously disrupts the functioning of a community or society and causes human, material, economic or environmental losses that exceed the community's or society's ability to cope using its own resources.
<i>Recyclables</i>	Recyclable wastes refer to wastes that can easily be recovered or made into other products. They typically include glass, paper, cardboard, metal, plastic, tyres, textiles, batteries, and electronics.
<i>Bulky waste</i>	Bulky waste (end-of-life vehicles, tyres, white goods, furniture, and other large household goods) describes waste items that are too large to be accepted by the regular waste collection service. It includes damaged furniture, abandoned vehicles and large appliances.
<i>Wastewater</i>	Wastewater refers to waterways impacted by solid wastes and related aspects, such as leachates from landfills or point source pollution from storm water drains.
<i>Plastic waste</i>	Plastic wastes may be recyclable wastes as discussed above. Plastic packaging and single-use plastics may also be a significant source of plastic waste.

## Annex 4: Existing Legislation Addressing Waste Management

A summary of existing Cook Islands legislation related to waste management is provided in **Table 11. Table 11: Legislation impacting waste governance in the Cook Islands**

**Table 11: Legislation impacting waste governance in the Cook Islands**

<b>Legislation</b>	<b>Regulations</b>	<b>Description</b>
Environment Act 2003 ( <i>as made</i> )	<p><i>Environment (Atiu and Takutea) Regulation 2008</i></p> <p><i>Environment (Mitiaro) Regulation 2008</i></p> <p><i>Environment Act (Ozone Layer Protection) Regulation 2008</i></p> <p><i>Prohibition on Importation of Plastic Shopping Bags Regulation 2012 (Regulation 2012/9)</i> (copy not available online)</p>	<p>The preeminent environmental legislation in the Cook Islands, the Environment Act has provided powers for the National Environment Service to implement:</p> <ol style="list-style-type: none"> <li>Controls on ‘pollution,’ defined as ‘the introduction, either directly or indirectly, of substances or energy into the environment, which results in - (a) deleterious effects that are harmful to living resources or marine life; or (b) hazards to human health; or (c) hindrance to marine activities including fishing and other legitimate uses of the sea; or (d) impairment of quality for use of water, air or soil; or (e) reduction of amenities; or (f) the creation of a nuisance’ (Section 2).</li> <li>A prohibition on pollution of Cook Islands waters (Section 51);</li> <li>A prohibition on disposal of toxic chemicals or waste (Section 56);</li> <li>Provisions establishing an Environment Protection Fund (Section 61); and</li> <li>Powers allowing for the making of regulations (Section 70).</li> </ol> <p>Under Part 6 of the <i>Environment Act</i>, there is provision for the NES to prepare draft management plans for any area within the island for any of the listed purposes, including the prevention and control of pollution and waste (Section 37). These plans are prepared if requested by Island Environment Authorities, which are established under Section 11 of the Act.</p> <p>The <i>Environment (Atiu and Takutea) Regulation 2008</i> contain a number of provisions relating to environmental health and waste management, of note are:</p> <ul style="list-style-type: none"> <li>prohibitions on disposing of waste or litter into, or otherwise polluting, drinking water (r 24)</li> <li>requirements to maintain the cleanliness of premises (r 26)</li> <li>prohibitions on non-biodegradable plastic shopping bags or glass beer bottles (r 27)</li> <li>permissions for the burning of litter at home, excluding some hazardous wastes (r 28)</li> <li>designation of the Island Council as responsible for collection of recyclable materials (r 29)</li> <li>prohibitions on the movement of hazardous materials and waste into the island without a permit (r 30)</li> <li>designation of a public waste disposal and treatment site (r 31)</li> <li>regulation of the construction of sewerage structures (r 32 and 33)</li> <li>enforcement and penalty provisions (Parts VII and VIII).</li> </ul>

Legislation	Regulations	Description
Public Health Act 2004 (as made)	<i>Public Health (Sewage and Wastewater Treatment and Disposal) Regulation 2014</i>	<p>Section 9 includes general monitoring functions that would extend to monitoring of water quality. These functions include:</p> <ol style="list-style-type: none"> <li>carrying out investigations, research and monitoring relevant to the protection and conservation of the natural resources of the Cook Islands</li> <li>protecting, managing, and preventing damage to any beach, land, internal waters, inland waters, drain, building, marketplace and any area used or frequented by members of the public</li> <li>monitoring and evaluating activities which significantly affect the environment.</li> <li>monitoring and reporting on the state of the environment of an island or any other part of the Cook Islands, at the request of the Minister, the Director, or the Island Environment Authority for the island concerned</li> </ol> <p>The Cook Islands are party to several international conventions that cover the import of hazardous asbestos chemicals (Rotterdam Convention) and transboundary movements of hazardous wastes, including asbestos wastes (Basel and Waigani Conventions). These obligations are managed through the provisions of the <i>Environment Act</i>.</p>
		<p>The <i>Public Health Act 2004</i> contains provisions relating to waste. in Part 6 relates to:</p> <ul style="list-style-type: none"> <li>the responsibilities of receptacle proprietors (Section 36)</li> <li>responsibilities of building occupiers (Section 37)</li> <li>prohibiting the burning of plastic waste and tyres (Section 38)</li> <li>requiring the appropriate emptying and disposal of septic tank waste (Section 39)</li> <li>requiring appropriate disposal of waste (Section 40)</li> <li>the power to create regulations relating to waste (Section 41).</li> </ul> <p>Part 8 relates to:</p> <ul style="list-style-type: none"> <li>offensive trades* and nuisances. It prohibits the carrying on of activities that are part of an offensive trade without an offensive trade permit (Section 51). Applications are made to the MoH Secretary for an offensive trade permit.</li> <li>activities that are nuisances and health hazards, including discharging hazardous waste are prohibited (Section 54).</li> </ul> <p>* <i>Offensive trades are listed in Schedule 1 of the legislation and include asbestos removal, processing or disposal, operating a waste disposal site, removal of waste from septic tanks and waste collection, treatment or disposal</i></p> <p>The <i>Public Health (Sewage and Wastewater Treatment and Disposal) Regulation 2014</i> contain provisions relevant for wastewater management, defining 'wastewater' to mean 'the spent or used water of residential, public or commercial origin'.</p>

<b>Legislation</b>	<b>Regulations</b>	<b>Description</b>
		A Sewage and Sanitation Board is established under the Regulations. The Ministry of Marine Resources also conducts regular testing of water quality, results of which are shared with the MoH.
Ministry of Health Act 2013 ( <i>as made</i> )	None identified.	<p>Section 6 of the <i>Ministry of Health Act 2013</i>, one of the functions of the MoH is:</p> <ul style="list-style-type: none"> <li>to implement laws, requirements, programs and initiatives related to public health issues affecting the health of the community and the environment (including vector control, port health and border control, water resources, food safety and nutrition, waste management, hazardous and harmful substances and practices, immunisation and disease prevention and community health services).</li> </ul> <p>Under Section 19, inspectors and other enforcement officers have authority to order that certain items, substances or things be treated as harmful to human health and be removed from land or premises and deposited at an approved dump, waste management or other disposal facility or place, with failure to comply constituting an offence.</p>
Infrastructure Act 2019 ( <i>as made</i> )	None identified.	<p>The <i>Infrastructure Act 2019</i> (administered by ICI) is also relevant to waste management in the Cook Islands, with provisions relating to infrastructure management. Section 6 defines ‘infrastructure’ as including:</p> <ul style="list-style-type: none"> <li>(i) all physical assets owned by the Crown but managed by an infrastructure manager for the benefit of the public that are, inter-alia, wastewater networks and solid and hazardous waste facilities,</li> <li>(ii) all roads,</li> <li>(iii) all reticulated infrastructure,</li> <li>(iv) hydro-electric storage and generation,</li> <li>(v) storm water drains,</li> <li>(vi) storm water networks.</li> </ul>
Dangerous Goods Act 1984 ( <i>as made</i> )	None identified.	The <i>Dangerous Goods Act 1984</i> creates a licensing system for dangerous goods, inspection powers and guidelines around storage, packaging and use of dangerous goods.
Pesticides Act 1987 ( <i>as made</i> )	None identified.	The <i>Pesticides Act 1987</i> regulates the control of the importation and sale of pesticides, several of which are regulated under international treaties such as the Stockholm and Rotterdam Conventions.
Disaster Risk Management Act 2007 ( <i>as made</i> )	None identified.	<p>The Act created the National Disaster Risk Management Council to, among other things, formulate policy for disaster risk management affecting the community, approve Disaster Risk Management Plans and all sub-plans intended to apply in the Cook Islands, and to implement a national Disaster Risk Management Plan (Section 9).</p> <p>Each Island Council is also required to establish a Disaster Risk Management Committee and to implement a Disaster Risk Management Plan (Section 15).</p>

## Annex 5: MEA Reporting

### Reporting requirements under relevant MEAs

The relevant MEAs for the PacWastePlus project are:

- a. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
- b. Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention);
- c. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
- d. Minamata Convention on Mercury (Minamata Convention); and
- e. Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

These MEAs establish requirements for countries which are party to them to provide certain notifications, share information and produce national reports on their implementation of the conventions.

Table 12 below summarises the key notification, information and reporting requirements for each of the relevant MEAs.

Based on the information summarised in Table 3, compliance with these requirements was coded on a five-point scale (with 0 as no data), as follows:

- **5** – high compliance, e.g., all or majority of national reports provided, relevant national authorities designated and updated, all necessary notifications and information provided.
- **4** – medium-to-high compliance, e.g., most national reports provided, relevant national authorities designated, most notifications and information provided.
- **3** – medium compliance, e.g., some national reports provided, some national authorities designated, some notifications and information provided.
- **2** – low-to-medium compliance, e.g., few national reports provided, national authorities not designated or updated, few relevant notifications and information provided.
- **1** – low compliance, e.g., no evidence of national reporting, national authorities not designated, no notifications or information provided.

In some cases, the assessment of reporting compliance was preliminary, for instance, because a particular MEA only recently came into effect for a particular country. An average compliance score was calculated overall based on individual scores for different MEAs for each participating country. This data suggests that participating countries' level of compliance with reporting, information sharing and notification requirements under relevant MEAs tends to increase based on the number of those MEAs to which they are party, although it is noted this is a correlation only.

This trend may arise because countries are able to transfer learning and capacity developed for reporting and information exchange under one treaty to another related treaty. It may also reflect the fact that joining MEAs gives countries access to capacity building resources and support under those treaties that has a positive effect for their reporting compliance across other treaties they are party to.

**Table 12: Notification, information sharing and reporting requirements of MEAs**

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
<b>Basel Convention</b>	<p>To protect, by strict control, human health and the environment against the adverse effects which may result from the generation, management and transboundary movement of hazardous wastes and other wastes (preamble).</p> <p>Ban Amendment (in force 5 Dec 2019) prohibits all transboundary movements of hazardous wastes from OECD countries to developing country parties.</p>	<p>Parties must notify Secretariat of wastes considered hazardous under national legislation and update as appropriate (Art. 3)</p> <p>Obligation to designate one or more competent authorities (which receive notifications of movements of hazardous wastes) and one focal point (responsible for transmitting decision on import bans) (Art 5.1).</p>	<p>Provision of information to other parties on import bans (Art.4 and Art. 13).</p>	<p>Obligation for annual national reports (Art. 13(3)).</p>
<b>Stockholm Convention</b>	<p>Mindful of the precautionary approach, to protect human health and the environment from persistent organic pollutants (Art. 1).</p>	<p>Notifications to Secretariat for registration of specific exemptions for import/ export (Art. 4)</p> <p>Obligation to designate national focal point for information exchange Art. 9(3) –</p>	<p>Obligation to develop and transmit to Conference of Parties a national implementation plan (NIP), and to review and update plan, as appropriate, on a periodic basis (Art. 7).</p>	<p>Article 15 requires periodic reporting on national implementation measures. At the 1<sup>st</sup> Conference of the Parties, it was decided that national reports should be submitted every four years).</p> <p>Four reporting cycles since convention entered into force (2006, 2010, 2014, 2018). Fourth report was required to be submitted by 31 Aug 2018.</p>

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
<b>Rotterdam Convention</b>	To promote shared responsibility and cooperative efforts among parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to parties (Art. 1).	<p>Parties must designate one or more national authorities authorised to act on the country's behalf in performance of the administrative functions required by the Convention. These details are to be notified to the Secretariat no later than the date of entry into force of the Convention for that party and any changes are to be notified 'forthwith' (Art. 4).</p> <p>Parties required to notify the Secretariat of new or existing 'final regulatory actions' banning or severely restricting a chemical e.g., pesticide or industrial chemical regulated by the Convention (Art. 5).</p> <p>Notifications of export of listed chemicals (Art. 13).</p>	Obligations in respect of chemicals listed in Annex III, include notifications to the Secretariat of the country's proposed response for future imports (e.g., decision to prohibit, allow, allow with conditions). Should be accompanied by details of legislative or administrative measures on which it is based (Art. 10).	No specific requirement for national reporting.
<b>Minamata Convention</b>	To protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds (Art. 1).	<p>Notifications regarding export of mercury (Art. 3).</p> <p>Requirement for designation of national focal point for information exchange and notifications under article 3 (Art. 17).</p>	Discretionary obligation, following an initial assessment, to develop implementation plan and transmit to Secretariat (Art. 21).	Obligation to report on measures taken for implementation (Art. 21). Pursuant to decision of COP MC-1/8 on the Timing and format of reporting by the parties (2017), reporting is on a biennial basis with short form every 2 years and long form every 4 years.

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
<b>Waigani Convention</b>	To prohibit the importation of hazardous and radioactive wastes into Pacific Island developing countries and to facilitate environmentally sound management of such wastes (preamble).	<p>Obligation to notify Secretariat of wastes considered/ defined as hazardous wastes under legislation beyond those listed in Annex I and inform of any significant changes (Art. 3).</p> <p>Must designate one competent authority and one focal point (Art. 5).</p> <p>Notifications of transboundary movements of hazardous wastes (Art. 6).</p>	<p>Obligation to forward to Secretariat information on any illegal hazardous wastes import activity in jurisdiction (Art. 4).</p> <p>Obligation to provide information to Secretariat on changes to competent authorities/ focal points or changes to national definitions of hazardous wastes (Art. 7).</p>	<p>Deadline for 1<sup>st</sup> biennial short report 31 Dec 2019, 1<sup>st</sup> long report 31 Dec 2021.</p> <p>Requirement to submit ‘such reports as COP may require’ regarding hazardous wastes generated in jurisdiction (Art. 4).</p> <p>At its Second Meeting in 2004, the COP agreed that Reporting and Transmission of Information forms should be filled out annually by parties and submitted to SPREP in its role as the Convention Secretariat. Parties were requested to begin reporting starting at the 2004 calendar year.</p>

## Annex 6: Models and Concepts for Waste Management

There are a number of general models and concepts that inform contemporary waste management regulation and practice. These models often require quite significant supporting institutional and economic infrastructure that may not be in place or possible in many participating countries. Adopting these models may, therefore, be a long-term strategic goal rather than an immediate policy priority for nations.

### The Waste Hierarchy

The generally accepted model for waste management that appears in the strategies of a number of countries in the Pacific region, is the 'waste hierarchy' model. The aims of the hierarchy are:

- a. To generate as little waste as possible in the first place; and
- b. To extract the maximum practical benefit from the waste that is still produced.

The waste hierarchy suggests that as a priority order in waste management legislation and policy, governments should pursue waste avoidance, reduction (prevention or minimisation), re-use, recycling, and other recovery (e.g., waste-to-energy) (see Figure 2). The hierarchy dictates that the last option is disposal for end-of-life products.



Figure 2: Waste hierarchy (Creative Commons Licence BY-SA 3.0)

### The Circular Economy

The 'circular economy' is also increasingly regarded as relevant to waste management legislation and policy. A 'circular economy' is one that values resources by keeping products and materials in use for as long as possible. This contrasts with a linear economy – take, make and dispose – approach. In waste management, this means placing a value on re-use and recycling, with the aim of zero waste.

Related to the circular economy are producer responsibility approaches, where producers are required, to design and make products that are recoverable, or recyclable, and accept the return of waste produced by their products. Producer responsibility can be encouraged by importing countries via legislative mechanisms, such as levies on imported products that can be recycled at the end of their operational life.

## Environmental Models

These newer policy models sit alongside other general environmental models for managing waste safely and preventing waste pollution. These models may adopt tools such as EIA for waste generating activities, permitting, or licensing of waste management facilities, regulation of waste collection and offences for harmful actions with respect to waste such as littering or dumping, as well as incentives to segregate and separate wastes. Few of the participating countries, however, have extensive testing, monitoring, and tracking measures in their waste management legislation to support the successful operation of these models. Effective compliance and enforcement of standards are also necessary.

The model used to formulate the waste management legislative framework will necessarily influence the efforts and input needed to manage not only waste, but the legislation and the government's required management:

- Different types of legislative models can be adopted to give effect to different types of policy objectives. In turn these different models require differing levels of institutional support and administrative arrangements to make them work.
- Operation, regulation, and enforcement are distinct functions that can be divided among different agencies. Sometimes these roles are divided among public and private bodies, but in some cases, they are all the responsibility of government or semi-public entities. All these functions may involve the community in different ways, such as providing information to the community and involving the community in enforcement activities.

Table 13 summarises, in general terms, different kinds of legislative models for waste management, the overall policy objectives they relate to, and the key institutional underpinning required for their administration and operation, as well as examples drawn from the waste-related laws of the participating countries.

Table 14 describes how the existing and pipeline waste management legislation of participating countries maps against these general models.

**Table 13: Legislative models and institutional requirements**

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p><b>Dedicated waste management legislation [WMA]</b></p> <ul style="list-style-type: none"> <li>• Definitions of waste streams /other waste as prescribed by regulation</li> <li>• Designation of responsibilities for waste management</li> <li>• Standards/protocols for collection, treatment, storage/ disposal</li> <li>• Waste licencing/ permitting of waste operators (OHS/safe handling)</li> <li>• Audit and monitoring provisions</li> <li>• Sustainable financing mechanisms, e.g., levies/ charges</li> <li>• Enforcement provisions and incentive-based regulation</li> </ul>	<ul style="list-style-type: none"> <li>• Waste reduction / prevention</li> <li>• Re-use, Recycling, Recovery</li> <li>• Identification and achievement of waste reduction targets</li> <li>• Safe handling, storage, and disposal</li> <li>• Minimising harm to environment and people</li> <li>• Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility)</li> <li>• Incentivising behavioural change, including re-use, and recycling</li> <li>• Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>• Clear designations of responsibility</li> <li>• Inter-agency cooperative approach</li> <li>• Cooperation between different levels of government</li> <li>• Supporting ‘soft’ law instruments</li> <li>• Staffing / resourcing for implementation, monitoring and enforcement</li> <li>• Ongoing access to information; technical and policy setting.</li> <li>• Support for storage, recovery and disposal</li> <li>• Community / private sector consultation</li> </ul>	<ul style="list-style-type: none"> <li>• Waste Management Acts in Samoa, Tonga, Tuvalu, and Vanuatu</li> <li>• Proposed Solid and Hazardous waste legislation in Cook Islands</li> </ul>
<p><b>Regulation of specific waste streams under environment protection legislation e.g., solid waste, bulky waste, organic waste, recyclables, plastics, disaster waste, wastewater [EPAct]</b></p> <ul style="list-style-type: none"> <li>• Definitions of waste streams</li> <li>• Provisions re storage, collection, segregation, and disposal of waste</li> <li>• Technical standards/ specialist implementation</li> <li>• Enforcement provisions</li> </ul>	<ul style="list-style-type: none"> <li>• Effective / efficient waste management</li> <li>• Minimising harm to environment and people</li> <li>• Sustainable financing</li> <li>• Comprehensive Waste Collection</li> <li>• Improvement of waste sorting and diversion from landfill</li> <li>• Recycling; Recovery</li> <li>• Minimising waste pollution and human health risks</li> <li>• Hazard reduction and climate change adaptation</li> </ul>	<ul style="list-style-type: none"> <li>• Clear designations of responsibility</li> <li>• Inter-agency cooperative approach</li> <li>• Supporting ‘soft’ law instruments</li> <li>• Staffing / resourcing for implementation, monitoring and enforcement</li> <li>• Ongoing access to information</li> <li>• Support for secure storage, recovery, and disposal</li> <li>• Community / private sector consultation</li> </ul>	<ul style="list-style-type: none"> <li>• Solid Waste Management Regulations in Yap State (the FSM), Palau and the RMI</li> <li>• Environment Management (Waste Disposal and Recycling) Regulations in Fiji</li> <li>• Proposed Waste Management Bill 2016 to amend Environment Act in Solomon Islands</li> </ul>
<p><b>Regulation of hazardous waste e.g., healthcare waste, asbestos, e-waste, wastewater [Haz waste]</b></p> <ul style="list-style-type: none"> <li>• Identification of hazard sources</li> <li>• Separation and diversion from landfill</li> </ul>	<ul style="list-style-type: none"> <li>• Effective / efficient waste management</li> <li>• Waste segregation</li> <li>• Safe handling, regulated storage, and out of country disposal, as necessary</li> <li>• Minimising pollution harm to environment and people</li> </ul>	<ul style="list-style-type: none"> <li>• Clear designations of responsibility</li> <li>• Inter-agency cooperative approach</li> <li>• Cooperation between different levels of government (local operational to national)</li> <li>• Supporting ‘soft’ law instruments</li> </ul>	<ul style="list-style-type: none"> <li>• Hazardous Wastes and Chemicals Act in Tonga</li> <li>• Solid Waste Management Regulations in Palau and the RMI</li> <li>• Healthcare waste management plans in Samoa, PNG</li> <li>• Asbestos disposal guidelines - PNG</li> </ul>

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> <li>• Registering, tracking, and monitoring</li> <li>• Staff training and capacity building.</li> <li>• Licencing/permitting (OHS, regulated handling and disposal)</li> <li>• Targeted fee/ charges basis to reflect risk management requirements</li> <li>• Compliance with MEA obligations</li> </ul>	<ul style="list-style-type: none"> <li>• Utilisation of best practice technologies, with implementation guidelines, e.g., healthcare waste incineration</li> <li>• Building capacity to deal with disasters/ pandemics</li> </ul>	<ul style="list-style-type: none"> <li>• Staffing / resourcing for implementation, monitoring and enforcement</li> <li>• Ongoing access to information</li> <li>• Support for secure storage, recovery and environmentally sustainable disposal</li> </ul>	<ul style="list-style-type: none"> <li>• Regulations / guidelines under OHS legislation in Fiji, Samoa and Niue.</li> <li>• Specific part in dedicated waste legislation in Tuvalu</li> <li>• Ozone Layer Protection Act 2010 [2014] in Vanuatu</li> </ul>
<p><b>Sustainable waste-financing systems [Sus fin/CDL]</b></p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Container deposit system; recycling /re-use deposit fees</li> <li>• Levy on items at customs point e.g., beverage containers/cans, lead acid batteries, PET bottles</li> <li>• Advance disposal fee at customs point</li> <li>• Scaled landfill fees i.e., higher for recyclables</li> <li>• Separate, dedicated fund with regulations. for management and distribution of funds; independent audit functions</li> </ul>	<ul style="list-style-type: none"> <li>• Waste reduction / prevention</li> <li>• Re-use, Recycling, Recovery</li> <li>• Effective / efficient waste management</li> <li>• Supporting waste segregation</li> <li>• Minimising waste pollution</li> <li>• Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility)</li> <li>• Incentivising behavioural change e.g., through % of amount paid to consumers as refund after use; % paid to support recycling of items</li> <li>• Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>• Inter-agency cooperative approach and cooperation b/n national and provincial/ local government</li> <li>• Reservation of fund from consolidated revenue with transparency and independent oversight</li> <li>• Staffing / resourcing for implementation at customs point; monitoring and compliance</li> <li>• Ongoing access to information</li> <li>• Support for storage, re-use, recovery and disposal (e.g., export fees)</li> <li>• Community / private sector consultation</li> <li>• Public education - communications expertise and resources</li> </ul>	<ul style="list-style-type: none"> <li>• Container deposit schemes in the FSM (except Chuuk), Fiji, Kiribati, Palau</li> <li>• Waste levy and select refund scheme on wide range of products in Tuvalu, including but not limited to waste that can be recycled/ recovered</li> <li>• Cook Islands – advance disposal fee</li> <li>• RMI - Waste Fund</li> </ul>
<p><b>Prohibition on import of certain items [Ban]</b></p> <ul style="list-style-type: none"> <li>• Most commonly in the context of plastics e.g., single-use plastic bags, Styrofoam containers, disposable straws/cutlery.</li> <li>• May take form of levy rather than outright prohibition</li> <li>• Applicable to other high risk, waste-generating products or</li> </ul>	<ul style="list-style-type: none"> <li>• Waste reduction / prevention</li> <li>• Effective / efficient waste management</li> <li>• Minimising waste pollution, health, and environmental risks</li> <li>• Meeting International waste management obligations</li> <li>• Supporting in-country industries such as tourism and hospitality</li> <li>• Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>• Clear designations of responsibility and authorisations</li> <li>• Inter-agency cooperative approach</li> <li>• Supporting ‘soft’ law instruments</li> <li>• Staffing / resourcing for implementation at customs point; in-country monitoring and compliance</li> <li>• Ongoing access to information</li> <li>• Storage at customs point, as necessary, and disposal</li> </ul>	<ul style="list-style-type: none"> <li>• Various prohibitions enacted in the FSM, Fiji, Kiribati, Niue, Palau, PNG, RMI, Samoa, Tonga, Tuvalu, and Vanuatu.</li> <li>• Proposed in the Cook Islands for single-use plastics.</li> <li>• ‘Zero’ plastic initiative in Timor-Leste.</li> </ul>

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p>chemicals e.g., asbestos sheeting, POPs; biosecurity</p> <ul style="list-style-type: none"> <li>Typically combined with in-country prohibition on manufacture, sale, and distribution</li> </ul> <p><b>Development control / impact assessment regimes / licences [EIA]</b></p> <ul style="list-style-type: none"> <li>Waste regulation as component of environmental legislation with regulations. for project EIA to inform development consents and pollution /discharge controls to minimise env. impacts.</li> <li>Broad powers to impose waste-relevant conditions on project and operational (pollution control) licences/permits</li> <li>Supporting regulations - specific regulations for identified wastes/ risk contexts</li> <li>Testing, monitoring &amp; reporting requirements, offence provisions</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Effective / efficient waste management</li> <li>Safe handling, storage, and disposal</li> <li>Minimising waste pollution, health and environmental risks including siting of landfills</li> <li>Implement strategic planning objectives e.g., spatial controls to divert wastewater from environmentally sensitive areas</li> <li>Polluter-pays and targeted discharge licences/fees</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Community / private sector consultation/ education - communications expertise and resources</li> <li>Clear designations of responsibility and authorisations</li> <li>Inter-agency and intergovernmental cooperative approach</li> <li>Technical expertise to set standards, and evaluation of EIAs and pollution controls</li> <li>Staffing / resourcing for implementation, testing/monitoring and enforcement</li> <li>Capacity building/OHS for operational staff e.g., at landfills to control pollution</li> <li>Ongoing access to information including technical and scientific standards and BAT</li> <li>Community / private sector consultation/ joint development of codes of practice</li> </ul>	<ul style="list-style-type: none"> <li>Environmental and / or planning legislation in Fiji, Kiribati, Niue, Samoa, PNG, Solomon Islands, RMI</li> <li>Coverage of major developments in Tuvalu Waste Management Act</li> <li>Solomon Islands Water Authority (Catchment Areas) Regulation restricts introduction of pollutant or wastes into catchment areas.</li> </ul>
<p><b>Compliance and enforcement/ changing behaviour [Comp/enforce]</b></p> <ul style="list-style-type: none"> <li>Civil and criminal offences, and administrative penalties</li> <li>Compliance tools e.g., littering spot fines, clean up notices, reputational penalties e.g. non-compliance notices</li> <li>Offence hierarchy and graded penalties (individuals vs corporations; single vs recurring offences); negotiated penalties</li> <li>Identified role for courts/tribunals and case reporting</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Effective / efficient waste management</li> <li>Minimising pollution, health, and environmental risks</li> <li>Waste Financing (e.g. user-pays / polluter-pays) where e.g. fines revert to waste management</li> <li>Incentivising behavioural change in industry and community</li> <li>Supporting new regulatory models e.g. prohibitions on single use plastics</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Clear designations of responsibility for enforcement, and delegations of powers as necessary e.g. to police, municipal officers</li> <li>Inter-agency and intergovernmental cooperative approach, including with legal officials for prosecutions/ civil actions</li> <li>Enhanced staffing/resourcing for monitoring, compliance and enforcement</li> <li>Interagency training and capacity building programs</li> <li>Ongoing access to information</li> </ul>	<p>All participating countries, e.g.</p> <ul style="list-style-type: none"> <li>RMI - EPA cease and desist orders; imposition of civil penalties; institution of civil proceedings; and any other action authorised under 'any other law'.</li> <li>Littering offences and offences under related legislation e.g. Nauru, Vanuatu</li> <li>Kiribati - Duty to clean-up environment</li> <li>PNG - Duty to prevent significant environmental harm and offences</li> </ul>

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> <li>Community awareness programs</li> </ul>		<ul style="list-style-type: none"> <li>Integration with traditional/ community-based authorities, esp. in rural areas</li> <li>Community / private sector consultation and compliance partnerships (soft law)</li> </ul>	<ul style="list-style-type: none"> <li>Samoa - community involvement in waste management, including making of by-laws and community programs and initiatives</li> </ul>
<p><b>Recovery of waste costs from private sector/polluter [Private/polluter]</b></p> <ul style="list-style-type: none"> <li>Packages of measures under legislation and ‘soft law’</li> <li>Tourism: Information and education; re-useable items; ‘green fee’ as arrival or departure tax; industry responsibility to reduce waste</li> <li>Extended producer responsibility requirements / standards in legislation and ‘soft law’</li> <li>Consumer awareness programs e.g. packaging</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Effective / efficient waste management</li> <li>Minimising waste pollution and reducing environmental and health risks</li> <li>Sustainable financing (e.g. user-pays / polluter-pays)</li> <li>Incentivising behavioural change in industry, consumers and community</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Clear designations of responsibility and cooperation between public and private sector</li> <li>Monitoring and facilitation of compliance directed at ‘consumers’</li> <li>Government procurement regulations/ guidelines</li> <li>Management and distribution of funds, with transparency and audit regulations.</li> <li>Community / private sector consultation and partnerships</li> <li>Public education - communications expertise and resources</li> </ul>	<ul style="list-style-type: none"> <li>Palau – responsible tourism measures</li> <li>PNG – mining contractor responsibility to take back their waste</li> <li>RMI - Majuro Atoll Waste Company (re tourist input)</li> <li>Nauru – natural disaster assistance</li> <li>Samoa -Tourism Development Act 2012 (minimise waste)</li> <li>Tuvalu - Tourism departure fee</li> <li>Cook Islands – advance disposal fee</li> </ul>
<p><b>Information provision, planning and reporting on waste issues [Planning/reporting]</b></p> <ul style="list-style-type: none"> <li>Provisions in legislation for publicly available waste management information</li> <li>Strategic/priority and target-setting in legislation or regulation</li> <li>Mandatory reporting by government agencies and waste industry on key targets and operations</li> <li>Waste audits and reporting</li> <li>Requirements for public consultation/ education</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Efficient and effective waste management</li> <li>Incentivising behavioural change in industry, consumers and community</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Designations of responsibility for planning and reporting</li> <li>Inter-agency and intergovernmental cooperative approach</li> <li>Staffing/resourcing/training for community and industry programs</li> <li>Ongoing access to information</li> <li>Community and industry consultation</li> </ul>	<ul style="list-style-type: none"> <li>Examples of State of the Environment reports in FSM and Palau</li> <li>Vanuatu – National Statistics Office waste reporting</li> <li>Tuvalu waste audits</li> </ul>

Table 14: Legislative models in participating countries' waste laws

MODEL	COOK ISLANDS	FSM	FIJI	KIRIBATI	NAURU	NIUE	PALAU	PNG	RMI	SAMOA	SOLOMON ISLANDS	TIMOR-LESTE	TONGA	TUVALU	VANUATU
DEDICATED WASTE MANAGEMENT LEGISLATION															
REGULATION OF SPECIFIC WASTE STREAMS UNDER ENVIRONMENT PROTECTION LEGISLATION.															
REGULATION OF HAZARDOUS															
SUSTAINABLE WASTE-FINANCING SYSTEMS															
PROHIBITION/LEVY ON IMPORT OF CERTAIN ITEMS															
DEVELOPMENT CONTROL / IMPACT ASSESSMENT REGIMES / LICENCES															
COMPLIANCE AND ENFORCEMENT/ CHANGING BEHAVIOUR															
RECOVERY OF WASTE COSTS FROM PRIVATE SECTOR/POLLUTER															
INFORMATION PROVISION, PLANNING AND REPORTING ON WASTE ISSUES															

Not present in existing legislation

Present in existing legislation

Present in pipeline legislation



**SPREP**  
Secretariat of the Pacific Regional  
Environment Programme



This initiative is supported by **PacWastePlus**-a 64-month project funded by the European Union (EU) and implemented by the Secretariat of the Pacific Regional Environment Programme (SPREP) to **sustainably and cost effectively improve regional management of waste and pollution.**

Supported by the Australian Government through the Pacific Ocean Litter Project

